what they wanted. It's true I didn't appear there, but I believe it was Mr. Pollitt that did, with Mr. Helwig, and they had to spend hours going over the stuff. Now, I was denied this right and it's hurting my chances in the case in that I can't have the evidence which is in possession of the prosecution.

The Court: Well, we'll hear what Mr. Cercone has to say.

Mr. Cercone: He has a complete list of everything that we had. I just asked him to give us a list of what he wanted and he gave us a list of what he wanted and he got [fol. 2322] it. The fact that he doesn't see where I get it is no indication that I am trying to deprive him of anything. He got a complete list of everything we have and whatever he wants he can have.

Mr. Nelson: You can't tell anything by just having "file of leaflets" unless I see the file I can't tell what is in it.

The Court: That is a pretty broad statement, "a file of leaflets". Why don't you submit the file to him?

Mr. Cercone: Sure. Is that what you want?

Mr. Nelson: That is not all the things I wanted.

The Court: You should make accessible to him everything that you have. Bring it in and let him use it. As far as anything else——

[fol. 2323] Mr. Cercone: I told him the stuff was on the inventory.

The Court: If it is properly identified on the inventory, I see no reason to deny him access to them but on the other hand there seems to be no necessity to let us just peruse them if you know what they are.

Mr. Cercone: They did the same thing last time too. If he is familiar with what they are, if he tells us what they are we will let him have them. I didn't deny him anything.

The Court: Bring your folder or whatever it is of the leaflets and let him utilize what he needs. You can bring them into Court.

Mr. Cercone: In fact, most of them are on the cart. I will bring the rest in this afternoon or tomorrow morning.

The Court: Why can't you get them by one o'clock? We don't want to have to postpone. We are going to go to four o'clock today.

[fol. 2324] Mr. Cercone: All right. I'll do everything I can.

The Court: Bring them in here at noon time and he can have until 1:15.

Mr. Cercone: The only thing, your Honor, I do have a little work to do in the case during the lunch hour.

The Court: Can't you let someone else——

Mr. Cercone: I can have someone else get them and have them here by one o'clock and he can take a few minutes and look at them and see what he needs out of them or what they are. It is probably just a matter of refreshing his recollection. He probably knows a good many of them but it's just a matter of remembering what they were.

Mr. Nelson: That's true.

(End of side bar).

[fol. 2325] Mr. Nelson:

Q. Now, Mr. Careathers, you recall writing this leaflet, "An Open Letter to Judge Musmanno", do you?

A. I do.

Q. And what was the occasion for writing that letter to him?

Mr. Cercone: Objection.

The Court: Sustained.

Mr. Nelson: I understood that I could ask questions, your Honor.

The Court: No, I don't think that has anything to do with the case at all. As I said, it was a personal matter between this witness and Judge Musmanno and if he published it openly, of course, people knew about it, but it hasn't any relevancy as it expresses the thoughts of this man in connection with Judge Musmanno.

Mr. Nelson:

Q. Were you at the Communist Headquarters in the Bakewell Building on one of the dates that Judge Musmanno appeared there, Mr. Careathers?

[fol. 2326] A. I was.

Q. And what was the subject of the conversation, briefly, between you and the Judge at the time?

Mr. Cerecne: That is objected to.

The Court: The objection is overruled. Judge Musmanno gave the substance of a conversation and this man, if present, may do so in the same fashion.

A. Judge Musmanno first asked me if I knew who he was. I told him I did. Then I asked him if he knew who I was. He said he did. And then he asked if Steve Nelson was in and I told him, no, and he said that he wanted to see Steve Nelson. I couldn't tell him at that time when you would be there and then he asked me for some pamphlets, he wanted to buy some pamphlets. I asked him if he would mind looking and he looked around and I sold him—I think 75 or 85 cents worth of pamphlets, I don't remember, and then the Judge said to me, "Careathers, I'm going to take steps to introduce legislation to outlaw or get rid of the Communist Party." Well, I said, "Judge, you know Hitler did the same thing in Germany." And he said, yes. I said, "But you can't find him now." The conversation went along that line and he said he didn't want to discuss it much [fol. 2327] more and after that he took the pamphlets, which I sold him, and left. That was the first day he came.

Mr. Nelson:

Q. All right. Do you have any more to add to that?

A. Not on that, that was about all that was said.

Q. Did you show him the pamphlets? Were they open on the bookshelf where he was able to pick out what he wanted?

A. All the pamphlets, books and everything were open to the public. Anyone could walk in and see. He picked out—he looked through and picked out what he wanted and anyone could do that.

Q. They were not hidden anywhere?

A. Not at all.

Mr. Nelson: We can break now, your Honor, as I am just going into a new question and it will be just as convenient——

The Court: We will recess until 1:15.

Noon recess.

[fol. 2328] Tuesday, January 22nd, 1952.

Afternoon session.

BEN CAREATHERS, called by the defendant, having been first duly sworn, testified as follows:

Direct examination.

Mr. Nelson:

Q. Mr. Careathers, on July 19th, I believe it was that you testified that you were at the Communist Party Headquarters when Judge Musmanno came in and got some pamphlets from you?

A. That is correct. I think it was July 19th.

Q. Do you know whether or not Judge Musmanno was a candidate at that time for Lieutenant Governor?

Mr. Cercone: That is objected to as immaterial. It was all brought out and I object to it as repetitious.

The Court: The objection is overruled.

A. To my knowledge I don't think he was. I think, however, he was campaigning for the Governorship. He later became a candidate for Lieutenant Governor.

Q. Your belief was at that time he was campaigning to [fol. 2329] be a candidate for Governor?

A. That is correct.

Q. And it was later he became a candidate for Lieutenant Governor?

A. Later he secured the nomination for Lieutenant Governor.

Q. Did that subject come up between you and he for discussion at that time?

A. No, that subject didn't come up.

Q. Now, Mr. Careathers, you testified to various types of activities you participated in during the period of time under indictment. Have you participated in any election or electoral activities either prior or during that period?

A. I have.

Q. Did you ever participate as a Communist in these campaigns?

A. Yes, I did. I participated as a Communist.

Q. Did you, at anytime, run for an office yourself on the Communist Party ticket?

A. Yes, I have quite a few times ran for office on the Communist Party ticket.

Q. Well, was it the practice at all times to have Communist candidates in these elections when elections came up either time you have been active in the Communist Party, or were there exceptions to it?

A. There were exceptions to having Communist candidates. Do you want me to elaborate on that a little bit?

Q. Yes.

[fol. 2330] A. Give a reason why there was exceptions?

Q. Yes, that is right.

A. There were times when the Party, and this is especially so where localities were Negro candidates were running for office on other Party tickets. There were times the Party would forego the placing of a Communist candidate on the ballot in order to strengthen and give them an opportunity to give support for Negro candidates, especially, but it wasn't fully limited to that, but that is one of the specific reasons.

Q. And in those situations the Communists called upon others to support this particular candidate even though they may not have been of the same political party, is that right?

A. That is correct.

Q. What did you say was the compelling reason for the Communists to withdraw their own candidate and support these others even though they had been Democrats, I presume, they had been some other political persuasion? What is the main reason for that?

A. Yes, they could have been Democrats or some other political persuasion but the reason or reasons were usually to attempt to elect that person in some instances which it thought would carry out certain things which the Communists were interested in. If I may give an example, if I can——

Mr. Cercone: That is objected to.

The Court: Go ahead.

[fol. 2331] A. I have in mind in the First Legislative District of Pittsburgh that constitutes the First, Third and

Fifth Wards in Legislative elections, a number of times I remember that the Communist Party did not place a candidate for Legislature in that district because of the fact that Mr. Homer Brown was a candidate in that district in the particular instances in which I live for re-election.

Q. To the Legislature?

A. To the Legislature. And because of the fact that he had a good record. I think many people conceded that he had the best record in relation to labor and in relations to the Negro people, and the Communist Party thought it would be a mistake to run a candidate which may have taken some of the votes which would have supported him and might be responsible for his defeat. That is an instance. This is not the only instance but some other instances when that same kind of reasoning compelled the Party to forego running a candidate.

Q. Of course in this particular situation you cite you didn't support the man because he was a Communist, did you?

A. Well, no, we didn't. As everybody knows I think, that Mr. Homer Brown was not a Communist. And he didn't agree with certain Communist ideas, many of them as far as that is concerned, and in spite of that for reasons I mentioned here, the Communist Party supported him and has supported other candidates for the same or like reason.

Q. Is it true, Mr. Carcathers, or is it not, that you par- [fol. 2332] ticipated in a campaign to see that a Negro was elected to Congress from Pittsburgh because a lot of Negroes have no representative in Congress at the present time. Isn't that true?

Mr. Cercone: That is objected to.

The Court: It may be objected to the statement as to the form, maybe.

Mr. Nelson: May I reformulate the question?

The Court: Yes.

Mr. Nelson:

Q. Did the Communists support or propose to elect a Negro from the City of Pittsburgh to Congress even though

he was anti-Communist but generally had a good record for the labor and the Negro people. Is that true?

A. That is correct.

Q. Did you participate in such an effort to see such a man was named on the slate?

A. I did. I did participate in such an effort.

Q. The Prosecution witness Cvetic testified that there was a meeting held in the Culture Center on Forbes Street during the Spring of 1949. Do you recall whether you were present at such a meeting where I made a report dealing with the Foreign policies situation and dealt with the question of the drive for the Daily Worker and the Worker? Do you recall attending such a meeting?

[fol. 2333] A. I do. I recall certain things. I recall attending such a meeting.

Q. What is it that fixes your recollection that you were at that meeting, any particular thing?

A. I might say two or three particular things which fixes my recollection as you call it. First, I chaired the meeting. I was the chairman of the meeting. Secondly: I remember the particular discussion of the Foreign Policies. And thirdly: I ran the other points on the agenda, the question of the Press and relation to that. And another thing that refreshes my memory of this particular meeting, there were prizes, I believe, given out at that meeting, I believe, of a book by Smith, another, I don't remember the book but the book was given others who had done outstanding work in reference to the circulation of the Press.

Q. Do you recall, Mr. Carruthers, what was the discussion or what were the things that was said by myself on the matter of Foreign Policy at that meeting?

A. Well, I remember at that meeting in relation to Foreign Policies, that there was a discussion, especially affecting Trade Unionists of Greece, where many of them had been persecuted and even murdered by the Greek Pro-Fascists Government, and I remember there was some criticism there of my former boss whom I worked under and I was on the staff of the Steelworkers Organizing Committee who was at that time representing the Trade Union movement in Greece and there was criticism on the part

of the Government supporting that Greek Facist Govern
[fol. 2334] ment.

Mr. Cercone: Your Honor, I object to all of this as hearsay.

The Court: Well, if something was brought out by your witness Cvetic concerning that meeting, so if this is to rebut what he said we will permit it.

Mr. Cercone: As to what the defendant said?

The Court: I presume it is the discussion in which the defendant participated. It is a discussion in which the defendant participated from the point of view in limiting the discussion.

The Court:

Q. You were the chairman at the meeting but he led the discussion?

A. Yes. If I can continue on that point. As I said there was some criticism leveled against my former boss when I was a member of the staff of the Steelworkers Organizing Committee who had been sent there by his master union and who participated in the support of the Greek Pro-Facist Government and there was criticism against us supporting this Government where Trade-Unionists were persecuted and in some instances murdered.

[fol. 2335] Mr. Nelson:

Q. Do you recall or is that separation too far removed, what was the demand that was raised at that meeting or what was the subject matter to the people, the point they asked about in relation to this question?

A. The people, as I remember, and I think this is correct, they were called upon to express their opposition to our participating in the support of this Facist Government with letters, resolutions to their Congressmen, to the President of the United States, and I don't remember now whether there was a resolution adopted through the leaders of the Steelworkers Organizing Committee or not but I am quite sure of the resolution, and letters to the Congressmen and the President.

Q. Did the subject of America's participation in that war in Greece come up in that discussion?

A. That subject came up in the discussion.

Q. What was the essence of what was said by myself, if you recall, in criticism of the American participation in support of the Greek Pro-Facist Government?

Mr. Cercone: Which, of course, is all leading, your Honor, but I want to object to it.

The Court: It isn't leading. The witness asked that the defendant said concerning this meeting, if you recall.

[fol. 2336] A. As I recall Mr. Nelson in critical remarks to the Government in the support of this Facist Regime, and that is especially so in relation to what it was doing to labor in Greece, that we should not participate in the same or support to that Greek Facist Government where that kind of thing was going on, the murdering of labor, of workers, the prohibition of establishing and developing trade unions and fighting for an opportunity to give expression to the desires of the workers. We should oppose that, and the question was raised, as I mentioned before, in protesting to the President, to our Senators, to our Representatives and so on on this question, asking the cessation of support of that Government in Greece.

Q. Was there any discussion about just and unjust wars in that meeting, do you recall?

A. I recall there was a discussion about just and unjust wars.

Q. Was my characterization of that particular support or effort to support the Facists in Greece characterized as being an unjust war?

A. Yes, that was characterized as being an unjust war in supporting the Greek Government against the Greek people.

Q. Was there anything said at that meeting that it was necessary to overthrow the Government of the United States by force if they don't change the policy that we suggest?

A. As I said this morning there was nothing said at that meeting or any other time. I want that to be perfectly clear. The method of expressing opinions were employed at that meeting as other meetings of the Communist Party through letters, resolutions, telegrams to the Congress

[fol. 2337] men and to the Senators and the President of the United States. That was the method of titling that particular problem.

Q. Did the subject of the Government of Pennsylvania come up for discussion at that meeting in any way?

A. I can't just recall at this moment. I am trying to make myself remember.

Q. Basically you remember though that the discussion centered around National issues and Foreign, is that right?

Mr. Cercone: That is objected to.

A. Correct. I could answer the question the same as you asked it, what it centered on. I don't like to be led and stand on my own feet.

The Court: He isn't objecting to your answer but the form of the question. He has a right to do that.

Mr. Nelson:

Q. All right, Mr. Carcathers, did you, in the course of your activities in the Communist Party teach any classes?

A. Yes, I taught classes.

Q. And what were the subjects that you generally taught. Do you remember?

A. Well, generally the Negro question, current events [fol. 2338] and subjects of that kind. Political economy sometimes and subjects of that kind were the subjects I taught.

Q. Do you recall attending any classes taught by Bill Albertson, in the Spring of 1949, at the address on Wood Street, 417 Wood Street?

A. I remember the classes taught by Bill Albertson at that address and I did not attend the classes as one of the students.

Q. Why?

A. However, I attended the classes *for classes* a couple of times. I remember lecturing on one of the discussions on the Negro question.

Q. Although he conducted a main subject he had visitors that spoke?

A. Well, he had visitors at times who spoke on specific questions to the class, yes.

Q. Were you to any degree familiar with the course that was taught by Albertson generally there as being one of the leaders of the Party? Do you know what that general course was like? What were the topics discussed under it?

A. Well, I know generally what the course was like. I can't relate every session because of the fact I didn't attend.

Q. You weren't present all of the time?

A. No.

Q. Was Cvetic, the prosecution witness at any of those classes that you attended?

A. Yes, I recall. If I am not mistaken that he once at- [fol. 2339] tended the classes or twice I recall him being there, but when I lectured on the Negro question I am not positive whether he was there or not. I am not positive about that.

Q. Did you, at that class that you gave or those lectures you gave, did you teach force and violence as a means of accomplishing your political aims in the United States?

A. Absolutely not, absolutely not.

Q. Well, do you know Bill Albertson, do you?

A. I know Bill Albertson.

Q. But you haven't attended all of the sessions there of that class?

A. No.

Q. Did any of the instructors to your knowledge and information and your acquaintanceship with the subject discussed in the Party—did any of them instruct or conduct classes which has, as Cvetic put it in every session, he says the instructor says, "Overthrow the Government" and the meeting started and ended with that sort of hokus-pokus—do you remember that?

A. No. That isn't done.

Q. Not to the best of your knowledge?

A. Not to the best of my knowledge.

Q. How long do you know me, Mr. Careathers, about?

A. Well, I would say at least 18 or 20 years. I think it was, I do not recall when I first met you.

Q. Where was that?

A. I think it was in Harrisburg, I believe, in the late Spring or early Fall of 1933. I think that is correct. I participated, or I led a delegation of Hungry Marchers [fol. 2340] from Pennsylvania—how I remember you—I led it from the Western part of the State and you led it from the Eastern part. That was our first meeting.

Q. And you have known me off and on since then?

A. Yes, quite well.

Q. From what you have known of me and my activities did you ever hear me advocate force and violence or terrorism as a means of accomplishing my political objective?

A. Never.

Q. And you know me pretty well—in fact, you know my family pretty well, isn't that right, Mr. Careathers?

A. Yes. I am very well acquainted with your family.

Q. What is your interest in this case, Mr. Careathers?

A. Well, I would say——

Mr. Cercone: That is objected to as an opinion.

The Court: The objection is overruled.

A. I would say that I am interested in this case in doing what I can in the case to see that justice is meted out. I am interested in you as one who has participated in many endeavors to improve the conditions of the people of this country, and I would say especially the conditions of the Negro people. Thirdly: I am interested in this case from [fol. 2341] the point of view of placing the facts of the accusations and charges, the facts as I know them.

I think the people are entitled to having the facts and I know further than that from being a Negro my people as well as other people suffered during certain periods of history.

Mr. Cercone: I object to that subject matter.

The Court: You can say that you are interested without arguing the facts and I will have to limit you on that. You are interested in Mr. Nelson and to see that justice is done?

Mr. Nelson: May we be permitted to leaving Mr. Careathers go off the stand and go to the other witnesses and take this up after?

Mr. Cercone: How long will it take?

Mr. Nelson: About 10 minutes.

The Court: All right, and you can cross examine. Incidently, Mr. Nelson, here is the letter from the librarian of the Carnegie North Side Library, Mr. Seibel.

(Mr. Cercone reads the letter.)

The Court: It is stipulated if Mr. Seibel were present [fol. 2342] he would have testified in accordance with the writing on the letter:

"January 22nd, 1952.

On the stationery of the Carnegie Free Library of Allegheny, Federal and Ohio Streets, Pittsburgh 12, Pa., and the heading of George Seibel, Director.

Dear Judge Montgomery: The Communist Party met in our Lecture Hall July 9th-10th-11th of 1948. I have just verified this myself from the records. Dolsen must have arranged it, being the only man we knew.

Sincerely,

George Seibel."

Mr. Nelson: I overlook, your Honor, the time when I should have shown these leaflets to the jurors. I don't know whether I could repair the damage, not being experienced in it.

The Court: You can recall and ask it then. The leaflets were circulated. You can do that. We should know when that was. It may throw light on it or may not.

[fol. 2343] Oscar Emerich, a witness called by the defendant, having been first duly sworn, testified as follows:

Mr. Cercone: We would like to have an offer at side bar.

The Court: Come forward, Mr. Cercone, and Mr. Nelson.

Mr. Nelson: Your Honor, the purpose of this witness is merely to show the record of the State Legislature which would have shown if Musmanno had introduced those bills that he got against Communism, the Communists would be in there, I believe, and I want to see if they are in those journals. I got a subpoena and they are here and I want him to answer the questions.

Mr. Cercone: That is objected to because we didn't bring it out in our case in chief and on cross examination, and Judge Musmanno says it was only a resolution and never came up for a vote, that it was tabled. So that it wouldn't be in the Legislative Journal or whatever this is. In any [fol. 2344] way, it is a matter of cross examination and they haven't a right to bring up something on cross examination. It is also collateral and immaterial in that respect.

Mr. Nelson: I think the questions were put to Judge Musmanno and I want to show that there is no record of those bills.

Mr. Cercone: We didn't bring that up in our case at all.

Mr. Nelson: That is what he claims.

The Court: First, to test his credibility and you want to contradict him.

Mr. Cercone: Judge Musmanno would have to be recalled on that and I think it is too much far afield under these laws of evidence.

The Court: I don't think you can do it. It is collateral. It is to show bias or prejudice and he denies it and you want to rebut him. Objection sustained. Exception noted. It is beyond the realm of your privilege, Mr. Nelson, and you are protected on the record on it.

[fol. 2345] Ben Careathers recalled.

Mr. Nelson: It might take a little time, your Honor, if I do it one at a time, but I don't know how else the jurors can look at them.

The Court: Let's go over them one at a time and get the date. Get Exhibit A-1, the leaflet addressed to the Negro people in the Hill District.

Mr. Nelson:

Q. Do you recall when that was issued, Mr. Careathers?

A. I don't recall. That was issued, I believe——

Mr. Nelson: It would indicate by the first sentence it was issued in 1948 because it deals with the election that year. May I pass them to the jurors to examine?

The Court: They will be sent out if you wish to offer them in evidence.

Mr. Nelson: They are all offered.

Mr. Gercone: I have the same objection.

The Court: The objection is overruled. The next was A-2, Steel Sparks—what was the date of this?

[fol. 2346] Mr. Nelson: June, 1949.

Mr. Nelson:

Q. And I call your particular attention, do you recall this, Mr. Careathers, the article dealing with the matter of Jim Crowing against Negro people by one of the locals?

A. Yes, I remember it.

The Court: A-3 was the campaign against the Taft-Hartley Act.

Q. Do your recall what date, approximately?

A. I don't recall the date but it was nearly close to the drastic date of the Taft-Hartley Law.

Q. That would be somewhere around 1948?

A. Yes.

The Court: 9-A is to support the steel strike, reprinted in the Daily Worker by William Z. Foster.

Mr. Nelson:

Q. That was May 4th, 1949, do you recall?

A. That is correct.

The Court: A-5 is Steel Sparks.

Q. This was put out July 11th, 1949?

[fol. 2347] A. Yes, I recall that.

The Court: A-6 is Storm Troopers Attack on Meeting.

Mr. Nelson: I think I already turned that over to the jurors. That was in the Spring of 1948, wasn't it?

A. I think that is correct.

Q. It could have been '49?

A. It was either '48 or '49, probably '49. I think it was but I don't remember exactly.

The Court: A-7 is the Taxation question, a long letter addressed to City Council.

Q. Do you recall the approximate date of that, Mr. Careathers?

A. I think the first part of the year 1949; I believe, when the City Council was discussing the adoption of the program for taxes for the year.

Q. You are not sure about the date?

A. I am not sure about the date, no.

The Court: A-8 was an open letter to Judge Musmanno from the witness which was excluded. These were letters to the delegation and the agenda for the convention at the North Side Carnegie Hall.

[fol. 2348] The Court: Z is marked.

Q. Do you have one listed as M, your Honor?

The Court: M? It is away back somewhere by some other witness but not this witness.

Mr. Nelson:

Q. Now, Mr. Careathers, just for a few moments while the jurors are glancing at the leaflets. One more question to you, Mr. Careathers: during the period of the indictment was this type of activity basically what was done by the Communist Party of Western Pennsylvania?

A. Yes, basically that represents the type of activity which was carried on.

Q. Do you recall whether or not during that period there was any discussion of a peace petition known as the Stockholm Peace Appeal?

A. Yes. I remember a discussion as well as the distribution or the circulation of that petition during that period.

Q. In fact, a whole batch—do you recognize that? In fact, the whole batch was found in the headquarters of the Communist Party in the Bakewell Building and is that the kind of petition that you remember circulating in the City of Pitsburgh?

A. That is right. That is correct.

Q. Was this petition widely distributed in that period that you know of?

[fol. 2349] A. Reasonably widely. There was an attempt to distribute it very broadly and very widely.

Q. What was its main purpose?

A. Well, its main purpose was to call upon the people to express themselves upon the outlawing of the use of the Atom Bomb on any peoples.

Q. How was this to be done?

A. Well, it was to be done, this was an appeal to the Government to take steps to adopt such a resolution in the United Nations and calling upon all peoples to express themselves against this.

Q. In other words, it was an appeal to outlaw the use of the Atomic Bomb and to come to peace terms with the nations of the World. Is that correct?

A. That is correct, to come to peace with the nations of the World.

Q. And these petitions were distributed amongst the citizens and you could sign them if you wanted to and if you didn't want to you didn't have to?

A. That is correct. There was no compulsion. It was a circulation and the people signed it of their own free will if they desired to and if they didn't want to they didn't sign.

(At this time the jurors are reading the pamphlet.)

[fol. 2350] Mr. Nelson:

Q. Just one more question, your Honor, on this petition. Do you recall any prominent national individuals that were connected with this campaign in the United States?

A. Yes. I will recall a few prominent national individuals.

Q. And I mean are they generally known public figures. Is that right?

A. Public figures, that is right.

Q. Do you know whether or not any of them had been labeled or persecuted and charged with being foreign agents because they associated themselves with this peace appeal?

A. I know that Dr. W. E. DuBoe—anyway I know Dr. W. E. DuBoe as the chairman of the committee, the peace center I think it called itself, and there were some other individuals—I don't remember their names—who were associated with him and they were persecuted or prosecuted.

Mr. Cercone: Your Honor, we want to object.

A. I don't know but, no, Dr. DuBoe, he was prosecuted by the Government with so-called being a foreign agent.

Mr. Nelson: What happened to the case?

A. Well, the Judge in the case I believe——

The Court: Not what you believe. We better not go into the trial of somebody else.

[fol. 2351] Mr. Nelson: That is all.

Cross-examination.

Mr. Cercone:

Q. Now you said that you were an organizer for the Steelworkers C.I.O. in 1937. Is that right?

A. 1936 I believe I said, and in 1937.

Q. Isn't it a fact that you only received three pays there?

A. That is not a fact.

Q. It is not a fact?

A. Absolutely not.

Q. Now, is Nathan Albertson a member of the Communist Party?

Mr. Nelson: That is objected to.

The Court: The objection is sustained.

Mr. Cercone:

Q. Now you say you worked as an organizer for the C.I.O. As a matter of fact, you only did this as a Communist in order to get other Communists into Pennsylvania's basic industries, namely, steel, so that the time for revolution you would have Communists?

Mr. Nelson: That is objected to.

The Court: The objection is overruled.

[fol. 2352] Mr. Nelson: It's a lying statement.

Mr. Cercone:

Q. Is that a fact?

A. Mr. District Attorney, you will have to permit me to answer my way, not the way you want. I will answer the question.

Q. Is it true or not?"

A. That question is a pro-longed question which necessitates an explanation.

Q. Well, let me simplify the question then. You did that as a Communist, so you could get other Communists into the Steel Industry so when the time was ripe you would —Fifth Columns in the industry, namely, steel?

Mr. Nelson: That is objected to. I would like to suggest first the question is leading.

The Court: This is cross examination. He may lead you or suggest things. He said: did you engage in that work in order to gain the entrance of other Communists into the steel organization. That is the question.

Q. Was that your purpose?

A. I will answer the question. However, in answering that question I want to give an explanation. Yes.

The Court: You can elaborate.

[fol. 2353] Mr. Cercone:

Q. Isn't it a fact that you got into organizing work as a Communist only to help get other Communists into basic industries, namely, steel, so when the time was ripe you would have Fifth Columnists in the basic industries?

Mr. Nelson: I object to that and move for a mistrial. I am not charged with being a Fifth Columnist and move for a mistrial on account of the fact prosecution is able to get away with it.

The Court: The objection is overruled. Motion refused. Answer the question.

Mr. Nelson: It can't be answered, that kind of a question.

The Court: I think he can. Answer the question.

A. That was absolutely not my purpose for working for the C.I.O. Now I would like to explain.

Mr. Cercone:

Q. Isn't it a fact?

A. I think you are absolutely unfair. I would like to explain. I joined the staff of the C.I.O. organizing com-

mittee to aid in the best way I could in carrying out its [fol. 2354] purposes and its objectives. Its objective was to organize the steelworkers which meant those workers who are working in the steel mills and I participated along with the other organizer in bringing them into the union.

Q. Isn't it a fact that you went to those unions just as an agitator as part of the Communist program? Answer yes or no.

Mr. Nelson: That is objected to.

The Court: Was there any ulterior purpose, whether the interest in organizing was bonafide or had an ulterior in disorganizing, causing unrest.

A. My purpose as I stated was to organize the steelworkers.

Mr. Cercone:

Q. Answer yes or no. Is it true or not?

A. I told you my purpose and it is indicative of the fact it is not.

Q. I show you a book found in the Communist Headquarters here in Pittsburgh.

Mr. Nelson: I object to the way he is treating the witness on the part of the attorney here, and insist he treat him like a gentleman.

The Court: I will ask the District Attorney to resume his [fol. 2355] place at the counsel table and offer any material and to question him in a way that is proper.

Mr. Cercone:

Q. I show you Commonwealth Exhibit 56, being Left-Wing Communism and Infantile Disorder, written by D. I. Lenin, and found in the Democratic Headquarters—Communist Headquarters—under the control of Steve Nelson?

A. Yes.

Q. Found in the Communist Headquarters?

A. Yes.

Q. I read you page 38 here——

The Court:

Q. Are you familiar with the book?

A. I know about the title of the book but I don't think I have read it.

Mr. Cercone:

Q. You know about the book?

A. Yes.

The Court:

Q. Do you know about the contents of the book?

A. I don't know about the contents of the book. If I might state, first, I am a Negro number one, and secondly, I stand on my own feet, and thirdly, I don't want anyone telling me what to tell. I want to tell my way.

[fol. 2356] Q. I show you Commonwealth Exhibit 56 found in the Communist Headquarters?

A. Yes.

Q. And ask you if you subscribed to this?

A. I don't know what it is.

Q. I will read it to you.

Mr. Nelson: The witness says he is probably familiar with the title but not familiar with the pamphlet.

The Court: It is in evidence and he is a member of the Party and he wants to know if it is a doctrine and he subscribed to it as a member of the Party?

Mr. Cercone:

Q. "We must be able to withstand at all costs——.

A. But I don't know what this is.

Q. I show it.

A. We must understand this. What is this? What is this that we have to understand. You have to precede.

Q. "There can be no doubt people like Henderson—do you agree with that—do you subscribe to that?

A. What is your question?

Q. This is a book written by Lenin?

A. First, as I said, I haven't read the book and I don't [fol. 2357] think I should be called upon here to state to

what I subscribed to unless you want to put a specific question?

Q. Yes, if you subscribed to that kind of book?

A. I don't know. I can't say that I do. I can't say that I do because I said I don't remember having read the book.

Q. You didn't read the book?

Mr. Nelson: I object to the way the question is being formulated—the situation the way that book is applied, there may be a different condition.

The Court: Whether the reason is expressed here and you organized in the steelworkers.

A. I may not be able to interpret the reason as expressed there and the only way I can answer the question in an understandable way, I participated with the United States Steelworkers as a member on the staff for the purpose of organizing the steelworkers because at that time they had no organization to which they could give an expression and that was my object all along the line to get them to participate in the work.

Mr. Cercone:

Q. You are familiar with "Foundations of Leninism", aren't you?

A. Yes.

Q. As written by Joseph Stalin—you are familiar with that book?

A. Yes, I am familiar with the book.

[fol. 2358] Q. And that was written by Joseph Stalin and found in the Communist Headquarters, under the control of Steve Nelson and Commonwealth's Exhibit 167, and I direct your attention to this paragraph.

Mr. Nelson: What paragraph is that?

Mr. Cercone: Next to the last paragraph on page 104.

Mr. Cercone: The Revolutionary—it is a third away from the bottom—the Revolutionary will accept the reform in order for the overthrow of Bourgeoise——

Q. Do you subscribe to that?

Mr. Nelson: Your Honor, we went through that and gave interpretations, and it was explained they apply to a differ-

ent condition. This witness did not go into these matters here.

The Court: Probably he didn't undertake an explanation of these things on direct examination.

Mr. Nelson: I didn't introduce a single one of these on direct.

[fol. 2359] The Court: It is just a matter that these things may be directed to his attention and as to the things he done. That would be very limited, Mr. Cercone. He has made statements.

Mr. Cercone: I am asking a question in connection with his work in the union.

The Court: He has made a statement there was no force fought or advocated on the part of himself or the defendant. I suppose he could be confronted with it but it might indicate the basic philosophy upon which you are relying on there, Leninism, with this witness; because he did not discuss it himself. It would not be proper cross examination.

Mr. Cercone:

Q. Now you say you have known Steve Nelson about 18 years, is that right?

A. That is correct.

Q. During that time did you know him by any other name?

A. No, I didn't.

Q. Do you know he also used the name Louis Evans?

Mr. Nelson: That is objected to.

[fol. 2360] The Court: The objection is sustained. I think we made that rather clear sometime ago unless you are prepared to establish this witness has such knowledge, not just to risk an answer.

Mr. Cercone:

Q. Now, then, Mr. Careathers, did you testify in other cases?

A. In which?

Q. Have you testified in other cases in this Court?

The Court: Concerning whom and what?

Mr. Cercone: May I have a side bar on that?

The Court: Yes, come forward.

Mr. Cercone: We have a conviction record of perjury, your Honor, three records of perjury and on conspiracy and one obtaining signatures under false pretense.

Mr. Nelson: Your Honor, that was a case during 1940, when there was pressure against Communists here and a lot of people here and they were told to say unless they testified they falsely signed the application they would lose their jobs and as a result a lot of innocent were framed [fol. 2361] and sent to jail. He didn't do any criminal thing. It was in a way a type of hysteria whipped up against him, and I think it would be unfair to bring it up on this trial.

The Court: He may be confronted with conviction and may tell how the circumstances arose, and it affects his credibility, and I think it is perfectly proper for the District Attorney to confront him with it.

Mr. Nelson: This man didn't commit a crime. The other fellow did. He, Cvetic, actually attacked and beat up his sister, and you didn't let me do it, that is, Cvetic.

The Court: It had to be a felony and a misdemeanor. Perjury is different. Objection overruled. Exception noted. You may confront the witness with any records.

Mr. Cercone: Your Honor, may we have a slight recess?

The Court: All right, give them 10 minutes recess.

(Recess from 2:42 to 3:00 p.m.)

[fol. 2362] Mr. Cercone:

Q. Now, Mr. Cvetic testified that the policy of the Communist Party of Western Pennsylvania was controlled by the Kremlin. Do you say that is right?

Mr. Nelson: That is objected to.

The Court: The objection is overruled. I don't know whether he used the word "Kremlin" or "Moscow".

Mr. Cercone: "Moscow".

The Court: Answer the question.

A. That is absolutely wrong. The Communist Party is an American Party controlled by the people of the United States.

Q. All right, now you testified that you recall hearing Mr. Nelson reading from the History of the Communist Party at the meeting at the Culture Center?

A. No, I didn't testify to that.

Q. What did you testify to?

A. I testified he spoke at that meeting and led the discussion.

Q. Mr. Cvetic testified that Mr. Nelson read from the History of the Communist Party of the Soviet Union, that is Commonwealth Exhibit No. 21, which was found in the Communist Headquarters and that Mr. Nelson read from that book at that meeting, at the Jewish Cultural Center meeting. Do you recall him reading that?

[fol. 2363] A. I do not recall him reading that.

Q. And Mr. Cvetic testified and did read, that Mr. Nelson did read from The Soviet Party of the Communist Union. He explained they wanted to carry out the program of the Communist Party of Western Pennsylvania in helping to advocate and teach the overthrow of the American Imperialist Government?

Mr. Nelson: That is objected to, and it is a loaded question.

The Court: The objection is overruled. He has entered into a discussion of that meeting and is subject to cross examination.

Mr. Nelson: He didn't quote any book.

A. I don't remember him having read that book at all at that meeting.

Q. Mr. Cvetic testified that the Communist Party of Western Pennsylvania teaches and advocates the use by force and violence for the overthrow of the Government?

A. The answer to that is a lie.

Q. Now, Mr. Careathers, were you ever defended in this Court?

A. Was I ever defended?

Q. Were you ever a defendant in this Court?

A. Yes, a defendant in this Court.

Q. What were you charged with?

A. I don't remember the specific charges.

[fol. 2364] Mr. Nelson: That is objected to.

The Court: The objection is overruled.

A. I don't remember how the specific charges were worded but can explain the case.

Q. Do you know the charges?

A. No.

Q. You were charged with perjury and making false statements under oath and obtaining signatures to written instruments by false pretense?

A. Yes.

Q. And I show you 527, June Sessions, 1940, and on which you were tried and found guilty of that charge?

A. That is correct. I would like, however——

Q. Just wait until I get finished.

Mr. Nelson: Let him explain.

The Court: He may.

A. That was a period, another period of hysteria. The Communist Party secured legal papers, issued by the State of Pennsylvania, in keeping with the law. It requires a minority party to circulate petitions in order to put their candidate on the ballot. This petition was secured from the State. It was circulated and we got on them the required number of petitioners, stating they were willing for the Communist candidates to be placed on the [fol. 2365] ballot.

Because of the period of hysteria at that time, as I mentioned before, hundreds of people who signed that petition were merged into the Communist Party. The different industries told them evidently if they didn't find some reason they didn't know they were signing they would lose their jobs. They didn't want to do that and there were a lot of accusations they were gotten under false pretense.

Certainly I have been known as a Communist, active in the Communist Party for many years during that period of time, known by thousands of people, anyone whom I would have asked knew I was asking for the Communist Party, and that false statement that I secured the signatures under false pretense could not get away, but that was done. People were terrorized and we were brought into Court and found guilty.

We were unable from a financial point of view to appeal the case, and incidentally I served ten months of an eighteen month sentence on that. We were unable from a financial point to appeal the case, but in Eastern Pennsylvania a similar case was tried and it was carried to the Supreme Court and the Supreme Court of the State of Pennsylvania threw out the charge in a similar case.

Q. Yes, but you were found guilty by a jury?

A. Yes, but I was explaining the reason.

Q. And at 533, June Session, 1940 you were again charged [fol. 2366] with perjury and making forgeries and you were again found guilty. Is that true?

A. What is that?

Q. 533, it is a separate verdict.

A. I don't know anything about a separate verdict. There was only one case to my knowledge, I don't know.

Q. Well, this is one verdict and then you have another verdict here that I just showed you?

The Court: Let me see the cases, please? Apparently there are two cases, one at 532 June, 1940 and one 533 June Sessions, 1940. They were tried together, I presume, according to the papers here. You had the impression only of one case, did you, Mr. Careathers?

A. That is correct.

Mr. Cercone: There were four different verdicts. There is No. 534 in which he was charged with perjury, making false statements and signatures under false pretense and found guilty, 534 June, 1940. And then again at 527 June, 1940 you were charged with perjury, making false statements in affidavits of the securing of signatures under false pretense and you were found guilty.

[fol. 2367] Mr. Nelson:

Q. Is it your recollection, Mr. Careathers, that was one case?

A. There may have been several cases, as he said, but I only know of one and know of one having been found guilty.

Mr. Cercone: Those are the records, four different verdicts.

The Court: The foreman of the Jury, Mary P. Wallace. They were all signed together.

(Side bar conference)

Mr. Nelson: Your Honor, I wasn't familiar with the details of these and I knew it to be one case. Now this business of putting this in here as if there were four cases, four different convictions is wrong, and I think it should be stopped as soon as your Honor was able to see that. And I don't believe Mr. Cercone ought to be allowed or permitted to repeat and repeat this proposition. It is calculated to stir up prejudice against this witness when he explained as to what he understood just what the case was all about. He doesn't deny he was convicted.

[fol. 2368] Mr. Cercone: I ask this man't testimony be stricken. He isn't allowed to testify, a man who is convicted of perjury.

Mr. Nelson: The man told you the circumstances he was convicted and especially when you had a hand in it.

The Court: The fact states four different cases possibly arising out of different petitions. They were tried together and there was a guilty verdict. The explanation as given by the witness, as far as striking out all his testimony is concerned, we will not strike it out at this time. You may, if you wish, finish the cross examination of this witness, and if the law is such he can't testify after ten years we will strike it out tomorrow and instruct the jury. It is a question of whether it *is* permanently disqualifies him from testifying. It would appear all four cases were tried at the same time though there were separate verdicts returned.

Mr. Cercone:

Q. You say you didn't appeal this case?

A. Yes, I understand it was not appealed. I know we tried to raise finances with which to do it.

[fol. 2369] Q. I show you a record here which shows you not only appealed and asked for a new trial and argued before Judges Morrow, Thompson and Graff, and was refused a new trial and appealed to the Superior Court. And in faot, in your motion for a new trial you set forth

sixteen reasons and it was argued before three judges and the decision of the Court handed down by Judge Graff refused that again. And that was true with all four of these verdicts, that was the Supreme Court, and it was appealed to the Supreme Court and the Court studied and examined it and reviews it and handed the remittor and uphold the verdict; so you did take it all the way up?

The Court: You have been rather reading from the records and I suppose you are asking for confirmation of that by the witness. Is that what you want to do there and is it the basis of your question. Is that your understanding, Mr. Careathers?

A. That is right, my understanding.

Q. That was passed on by the Appellate Court?

A. I did not know that.

Mr. Cercone: That nobody told you that?

A. Incidentally I was slightly inaccessible.

The Court:

Q. Do you mean you had been sentenced and the appeal was while you were serving time?

[fol. 2370] A. That is right.

The Court: The records found in this Court would indicate an appeal was taken.

Mr. Cercone:

Q. And the same thing happened where you were charged with conspiracy. You were charged at 519 June Sessions, 1940, charged with felonious crime of conspiracy and you were found guilty and this case went to the Appellate Court and sustained. Do you remember that?

A. I remember I was found guilty and one trial and one hearing. All of the business you bring up there I don't know.

The Court: Was that conspiracy trial the same time?

Mr. Cercone: That is four different numbers.

Mr. Nelson: It is brought for the purpose to appear there are 50 trials and charges.

Mr. Cercone: There were four conspiracies.

The Court: It isn't being prolonged for the Commonwealth or the defendant. If it was brought out we want to demonstrate that fact whether it makes any difference or not.

[fol. 2371] Mr. Cercone:

Q. That is in the same trial, October 31st. The Jury was sworn September 30th and on October 31st was the verdict.

The Court: All of the charges were tried at the same time apparently.

Mr. Cercone: Yes.

The Court: One charge of conspiracy?

Mr. Cercone: One charge of conspiracy and four charges of perjury and each one of them also carried the charge of obtaining signatures, false signatures in affidavits.

The Court: I suppose they all arose out of that same set of facts, the circulating of these petitions, did they?

A. That is right.

Mr. Cercone:

Q. A lot of petitions were circulated?

A. You would have to circulate a lot to get on the ballot.

Mr. Cercone: All right. That is all, your Honor.

The Court: Any further questioning of the witness?

[fol. 2372] Mr. Nelson:

Q. Mr. Careathers, what about this statement that the prosecutor made that you got three pays from the C.I.O. when you went to work for the C.I.O.

A. That is completely false. I worked approximately two years on the staff in the C.I.O. as an organizer and got paid every two weeks during that period of time.

And there are certain other things I can prove. At one period of time, in order to enable me to head the organizing of the conference of Negro organizations, a national conference to support the steel drives, my boss opened a bank account in my name with a thousand dollars. I can

bring that data, if necessary, to give me complete leeway to organize this national conference for the Negro Organization, for the support of the drive.

Q. Mr. Weathers, did you have any particular success in getting workers into the C.I.O. staff area in which you worked in, let us say, Aliquippa?

A. I did have.

Q. Let us say how many workers did you get into the union, let us say, on an average by weeks yourself?

A. That is a pretty difficult question to answer.

Q. Let us put it this way: any business meetings, or any gatherings of any sort where you signed up any members, where staff members were?

[fol. 2373] A. Yes, there were public meetings. I organized both in Aliquippa and Pittsburgh. I worked at the shop gates of the J. & L. and other places with other members of the staff, recruiting into the union by the dozens and hundreds. I signed up hundreds of workers throughout the Valley as a field worker organizer.

Q. Would you say you signed up a big bunch in one particular meeting—did you ever sign up as many as 50 or more in one day or one week?

A. I would. When I was first put on the staff full time I was put on for a trial period and worked in Aliquippa, it was I think, for two weeks and I had an armful of applicants when I brought them back to my boss. I don't know how many, a hundred or more, and he said we have had difficulty in penetrating workers in Aliquippa and would you like to have a regular job on the staff of the C.I.O. as an organizer and I said I would, and he said the trial period is discontinued and you are on the staff as a regular organizer.

Mr. Cercone: That is objected to as immaterial.

The Court: The objection is overruled.

Mr. Nelson:

Q. How many did you sign up, both in the C.I.O. and Aliquippa that were Communists?

A. Not a single one was a Communist.

Q. In other words, you were signing up any worker [fol. 2374] working in the plant if he were willing?

A. That is right. I signed them up.

Q. You didn't sign them up as subversives to overthrow the Government when you were ready, according to Cvetic's papers?

A. That wasn't even discussed. It was a question of being in the Union and they signed on that basis.

Q. About the election signatures you obtained in 1940, and you were charged and convicted for obtaining the signatures. What did you say the reason was that was; was it that many of these people signed these people, these people turned against you?

The Court: I don't think that is necessary. He has gone through that. I don't think it requires repetition.

Mr. Nelson:

Q. Do you know any case or such incident as that reversed by the higher Court where it was successfully appealed?

Mr. Cercone: That is objected to as immaterial.

The Court: He testified his case wasn't. The appeal was taken and the Supreme Court sustained the verdict.

Mr. Nelson:

Q. Your intention wasn't to appeal to a higher court, the United States Supreme Court?

[fol. 2375] A. Yes. I understand according to the papers an appeal was made which I did know about.

Q. But not to the United States Supreme Court?

A. Yes.

Q. The Pennsylvania Supreme Court?

A. Yes.

Q. That is your understanding?

A. That is all.

Mr. Nelson: That is all.

The Court: Any further cross examination?

Mr. Cercone: No.

(Side bar conference.)

Mr. Nelson: Well, your Honor, I can't at this time put on the next witness. If I were to put him on I don't think I

could get him here until tomorrow at noon, and actually depending on what the State is going to do from now on, as far as I am concerned—I know I can't get that person here that fast and might use him as a rebuttal or sur-rebuttal if that becomes necessary, and I will rest the case at this [fol. 2376] time and will now request to be given at least a day and a half time to prepare my argument, because I have been under heavy strain and I haven't had the record and have a lot of legal problems. I would like two days if possible.

The Court: I won't promise two days. Are you resting?

DEFENDANT RESTS

Mr. Nelson: Yes.

The Court: I will rule on the testimony of Mr. Careathers tomorrow morning, whether the jury should consider that. I am not certain about the perjury charges, whether or not it disqualifies him from ever testifying.

Mr. Nelson: My belief, within a ten-year period, that is my understanding but I don't know the law.

Mr. Cercone: We have one rebuttal witness but I thought the case would continue until around Thursday.

[fol. 2377] The Court: We are not going to delay the testimony until Thursday.

Mr. Nelson: I rest then at this stage and might use that witness for rebuttal.

Mr. Cercone: We can have one here tomorrow by one o'clock, I imagine.

The Court: What are you going to rebut? Rebut Dr. Aptheker or Mr. Careathers?

Mr. Cercone: No. Aptheker.

The Court: You have given your analyis and are not going to be permitted.

Mr. Cercone: There are some things not mentioned in peace.

The Court: For instance, what?

Mr. Cercone: I hate to submit the problem now.

The Court: I don't think there is very much rebuttal here, but I will not preclude you this afternoon but will ask you to be ready to rebut it tomorrow morning.

[fol. 2378] Mr. Cercone: This is a short notice.

The Court: We can't prolong. I see nothing to rebut. Certainly you can have somebody here in the morning. The defense is resting.

Mr. Nelson: If it is repetition I will continuously object.

The Court: We sustain the objection. I am not going over the argument. I am not going over it again, the philosophies discussed by both sides reflecting on the Party and the intention of the defendant, and I don't think there is much to it. So we will recess until tomorrow morning at which time the District Attorney is advised to be ready. I would prefer that you determine your rebuttal now. I could let the jury go now.

Mr. Nelson: There are some motions I had in mind.

The Court: If he is going to rest without rebuttal now we can rest now and dispose of the motions.

[fol. 2379] Mr. Cercone: I would like to confer with Mr. Smith and the District Attorney on this, and see what they say about the rebuttal witnesses.

The Court: Take a ten minute recess now and talk it over and see whether you want the jury brought in for any rebuttal.

Note on the record the defense rests. Is that right?

Mr. Nelson: That is right.

The Court: Since the defendant is resting his case, Mr. Cercone, we will recess the jury for a little while for you to determine if there is anything you want in the way of rebuttal.

(Short recess.)

MOTION TO STRIKE TESTIMONY AND DENIAL THEREOF

The Court: The motion of the District Attorney to strike out all testimony of the witness Ben Careathers because of his prior conviction for perjury in this Court is refused. Exception noted.

[fol. 2380] Now I will grant your request of postponement for two days so you will both be ready to argue this case on Friday.

So for the record, the record is closed. No rebuttal and no further testimony.

Members of the Jury, now the testimony is all completed in this case, no further testimony to be taken. The next step

will be the arguments of counsel to you, and since they have been requesting a day or two to prepare the arguments, which is not unreasonable in view of the extent of the testimony, we shall recess this matter now until Friday morning and you will be free to go about your affairs tomorrow morning and Thursday.

We plan not to hold you over the week-end for your deliberation. We will try to complete the arguments to you by the defendant and counsel by Friday and if it can't be accomplished it will be followed Monday by the Charge of the Court and it will resume Monday morning. You are excused now until Friday morning at 9:30 a. m.

[fol. 2381] Monday, January 28th, 1952.

Morning Session.

MOTION FOR MISTRIAL AND DENIAL THEREOF

Mr. Nelson: Your Honor, the first motion I wish to make is reference to a story in the Tuesday January 22nd paper of the Pittsburgh Press in which a report, a lengthy report, almost a full column in the paper, reporting the testimony or purporting to report the testimony of Ben Careathers, said the following at the end: "Following Mr. Seibel on the stand today was Benjamin Careathers who has been in charge here for years of the Communist drive amongst negroes. He also was convicted of sedition last year." Now, Your Honor, that is very obviously put in there to make the thing accumulative and to have an accumulative affect on the whole case here, and it is an obvious untruth, and I make a motion for a mistrial on the basis of that. It [fol. 2382] is bound to affect the jurors; they read the papers, and it gives them in addition to the untruths that they hear from the witnesses of the prosecution they get a daily dosage of that stuff in the newspapers and radio, and on the basis of that I move for a mistrial.

The Court: We will permit this article to be filed as part of your motion, and motion is refused and exception noted.

MOTION TO STRIKE INDICTMENT AND DENIAL THEREOF

Mr. Nelson: Now, Your Honor, I believe it is proper to make motions at this time on the points of the indictment.

Consequently, I will make brief motions on that. I move that the first count in the indictment be stricken because the Commonwealth has not proved the case against me.

The Court: Make your next motion. We will rule on them all.

[fol. 2383] Mr. Nelson: I make a similar motion on count 2 in the indictment on the ground the Commonwealth has not proven a case against me. I make the same motion on count 3 on the same ground. Make the same motion on count 4, the Commonwealth has not proven its case, move it be stricken. Count 5, make the same motion. The Commonwealth has not proven its case on this point any more than it did on the others. Number 6, the same motion, the Commonwealth has not proven its case. Number 7, the same motion, the Commonwealth has not proven its case. And I only state them briefly because I think, Your Honor, I read every line before. So I will just make it this time—the Court is acquainted with the points.

The Court: Yes, I will be referring to them by number in the charge.

Mr. Nelson: Move the same on count number 8, and the same on count 9. Same on count 10, count 11 and [fol. 2384] count 12.

The Court: What you are asking for is binding instructions to the jury on all counts of the indictment.

Mr. Nelson: What I am asking for, Your Honor, is I believe that even to a most prejudiced court it would be evident to me at least that at least some of the counts there don't even approach anything near what the Commonwealth claims they were going to prove.

The Court: It is not what they claim in their opening they were going to prove, it is what the indictment states and what the evidence was.

Mr. Nelson: That is what I am talking about, the evidence of the Commonwealth, and when I say they haven't proved anything, I mean their testimony is based on paid [fol. 2385] agents whose profession is to lie. Consequently they can't tell the truth because if they did they would be out of a job; somebody else would take their jobs. They got to do what the prosecution wants from them. No one can believe that testimony. It is contra-

dictory as I have proven already. And consequently, I think at least the court should give me an idea at this time—I believe it is right—what the ruling would be on the specific points that I made my motion.

The Court: I have reviewed the evidence very carefully and compared it with the counts in the indictment and what you are really asking me to do is pass on the credibility of the witnesses and that is not my prerogative; that is for the jury. If the jury believes what some of the witnesses said there is evidence to support the counts of the indictment. So that is a matter of argument to the jury [fol. 2386] rather than for me to pass on. So for that reason I will refuse all your motions concerning all of your counts and grant you an exception. Just as you say, if the jury doesn't believe it in some of these instances—there is not too much testimony—but there is some in each instance so I must act as I am doing.

MOTION FOR MISTRIAL AND DENIAL THEREOF

Mr. Nelson: Then Your Honor, I have an affidavit here dealing with what I believe to be the prejudice of the court based on an affidavit of a man who gave me that statement, Nathan Albert, in which it was indicated that the court and the A.B.C. have undertaken a campaign to arrest people of my political party and continues to sit on this case. In my opinion, it only continues to prolong the harm that was initially done, and I move for the withdrawal of a juror on the ground the court is not unbiased [fol. 2387] on this question and a fair trial is impossible under these circumstances.

The Court: This is just additional support.

Mr. Nelson: Supporting my contention . . . .

The Court: Evidence or affidavit concerning the original motion which of course was refused. So we will permit this to be filed and in support of your original motion on that basis, Mr. Nelson. But the action on the motion has already been taken so there is no need to act further on it.

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Nelson: Your Honor, I have just one more request this morning. I failed to introduce two copies of the legis-

lative journal last Tuesday when we were here. I would like the first thing to permit me to introduce them here, identify them only, because I am going to be compelled [fol. 2388] to refer to it in my argument, and I believe that the proper thing to do is to introduce it, identify it here at least so that I may make reference to it. It will take a second; the man is here and I would appreciate and I believe it is right that I should.

The Court: It seems we ruled on that in connection with Mr. Emerick. We have ruled on it and rest on our ruling and refuse you the permission at this time to reopen an offer, Mr. Nelson, because it is a matter that has been passed on.

Mr. Nelson: I believe the way I asked for it the last time was and you answered I would have to have Judge Musmanno on the stand in order to do it. If that is the only way to do it I ask the court's permission that Judge Mus- [fol. 2389] manno be recalled on the stand on this question. It is very vital. He is the key witness in the case and he has the respectability and so forth that goes with the position he holds ordinarily, and I can prove by these books that he lied on the stand.

The Court: Motion refused. This record is closed and it is going to stay closed.

Mr. Nelson: I take exception to the ruling. That is all the motions I have at this time.

(At side bar.)

Mr. Cercone: I want to point out to the court, Mr. Nelson may make statements that were not substantiated or illicited from the witness stand, and rather than get up every time that happens I wonder if the court could call that to his attention.

[fol. 2390] The Court: I will ask Mr. Nelson to limit his argument to the evidence.

Mr. Cercone: He will say many times this isn't true and that isn't true.

The Court: That is his privilege. If he refers to evidence here he can indicate his opinion it isn't true and argue the witnesses are perjurers, but I will instruct the jury any evidence stricken from the record or any statements

by the defendant in opening or closing is not evidence. The only thing is what they heard from the witness stand. Give due consideration to your arguments but as far as them stating new facts they are not privileged to do so.

Mr. Nelson: I will do the best I can to stick to what I consider our conclusions on the evidence. I have a right to it. I know the disadvantages I am up against not being a [fol. 2391] lawyer and not knowing these things. I can only do as a layman will do and try to do the best I can with what I understand the law to be.

The Court: That is all I can ask of you.

Mr. Nelson: Since I left court last Tuesday I got acquainted with this 1940 case that Mr. Careathers was involved. Now, the fact is there was some thirty odd people involved in the case and one trial, and Mr. Cercone could have known that.

The Court: The papers are here.

Mr. Nelson: I mean to say it was brought out as though he was some sort of a perjurer and liar and dishonest person, and four different items were cited . . .

Mr. Cercone: He was convicted.

[fol. 2392] Mr. Nelson: A lot of innocent people are convicted too. This was brought in although he was my only local witness because they would be jeopardized in their jobs. I can't put on a man from a steel plant because he would be afraid of losing his job. So I have been handicapped by that. The man that appeared here is a well known man in the community, and he appeared, with my full knowledge. There was that case in 1940. I found out there was a similar case Brown vs the Commonwealth, six months after their cases were appealed and the court threw them out, that is they shouldn't have been brought to trial; they were exonerated.

The Court: You can't bring that out because it is not involved here.

Mr. Nelson: Unless the court instructs the jurors—

[fol. 2393] The only thing I can instruct the evidence is before them on the conviction of perjury. I will tell them to scrutinize it very carefully. You can't argue from a case down East where the facts were altogether different.

Mr. Nelson: One thing, I believe I failed to make a motion on each of the Commonwealth's witnesses. First of all, I want to make a motion to strike Judge Musmanno's testimony now both sides have rested.

The Court: I think we have ruled on it.

Mr. Nelson: And move Crouch's testimony be stricken. He hasn't seen me since 1941 and whatever he tells is remote and out of this state. I don't see how it can possibly stand as evidence in this court.

[fol. 2394] The Court: It is only for the purpose of motive and intent and what you did here during the period of the indictment.

Mr. Nelson: Then I move the testimony of White and Patterson be stricken because even according to their own testimony they haven't seen me since 1931 or 1932, somewhere around there, I believe they said. How is that going to bear on me in any way, and how can I possibly find people who were with me twenty years ago and bring them into the court at this time. And urge the court to strike their testimony as being completely out of date and false. I can show you a record I received since then. I told you I was going to show you that Patterson's testimony was characterized as untrue by the trial examiner. I got the record here and he could not believe his testimony and has stricken it out although he was only one of two witnesses that lasted for weeks.

[fol. 2395] The Court: The trial examiner, he would have that right of disregarding it if he thought it was incredible. I can't pass on credibility of witnesses and you can't state to the jury what somebody else thought about it.

Mr. Nelson: I move Cvetic's testimony be stricken as a paid spy, a paid agent. That is his profession. He makes his living at that. That is a racket with him.

The Court: You can argue that to the jury, and I will mention it in my charge.

All the motions are refused and exceptions noted.

(End side bar.)

[fol. 2396] STATEMENT OF MR. NELSON TO JURY

Mr. Nelson:

Ladies and Gentlemen of the Jury:

I want to sum up what I consider pertinent that was brought out in this trial and I want to give you what I believe to be the theory of the prosecution in this case and what is involved in this case this morning. To start with, I have here in my hands the opening statement of the prosecutor in which he stated he was going to prove certain things to you, Ladies and Gentlemen of the Jury, and I am going to tell you that he couldn't prove those things that he stated he would prove, and that he relied on what he knows fully well exists in the country now, on prejudice, bias, and hysteria. That's his main evidence, Ladies and Gentlemen of the Jury. That's his main case. He stated for example that he was going to show that there was danger to safety, human life, and property, on page 448 of his statement.

What danger did he indicate here. What property was to be damaged. What human beings were to be attacked? None! None of his evidence brought that out; nothing whatever.

Then, he said he is going to show that the prosecution has no personal interest in the case. Well, that is enough as they say, if this wasn't in a courtroom, if it was in a [fol. 2397] union meeting, I'd say it's enough to make the horse laugh. He has no interest in the case. Everybody knows that Judge Musmanno, the main prosecution star in this case, used this case for his political advancement and he cooked it up in this courthouse with his other associates around, and he saw to it that when Lewis became Judge, who also became a judge as a result of the prosecution of this case, that his nephew took it over. And they have no personal interest in the case. So that's statement number 2 of the prosecution that was never proven and never attempted. Indeed, that they have no personal interest in the case.

Then on page 449 of his statement, opening statement, he said he is going to prove I helped to plan the overthrow

of the government of the State of Pennsylvania by force and violence. What evidence was brought to bear that up? Nothing but the prosecution's stool pidgeon witnesses that they concocted, no concrete cases of what and where and by whom things were going to be done. No, that is not necessary for him. All he had to do was to make a statement and he thinks the people are going to believe him.

Then on the same page he said he is going to prove the defendant is a member of Fifth Column. Now, Ladies and Gentlemen of the Jury, what evidence is brought to that to prove that I was a member of Fifth Column. In fact, [fol. 2398] even the star performers on the stand, Ladies and Gentlemen, did not mention that or show any evidence of that in their testimony.

Then in his opening he said he was going to prove that the Communist Party of the United States was a foreign controlled organization. Did he prove that? Even Cvetic the key witness who testified to that when he was confronted with the proposition do you know whether or not, do you have evidence to prove, in two different instances before a congressional committee, he said, "No, I cannot answer that question." And that's the testimony that Mr. Cercone relies on.

Then he said he was going to prove that we're a part of the Communist International. We have shown in the course of the argument that the Communist International was dissolved in 1943 and that we were not affiliated to the organization since then. When I say "We" I mean the Communist Party of the United States. So he is talking about background, nothing that is pertinent to this case, now, within two years of the indictment.

Ladies and Gentlemen of the Jury I'll show you the things that he did not prove that he was going to prove.

Then the only person that he had to back up the so-called statement about affiliations to the Communist International was Crouch, a paid witness, a paid performer who had been disassociated by his own statements from the Communist [fol. 2399] Party since 1942. And we are supposed to have a trial here for things that happened in two years during the indictment which covered the years 1949 and 50. That's the proof he had to rely on:

Then he was going to prove some malicious things that I was going to do which had to do with the infiltration of the plants in this area. What did he prove? Well, he proved nothing on this score, Ladies and Gentlemen. About so-called secrecy—we stated why we had to at times deny membership when we go to work in a plant because no employer wants to have a worker who is a progressive worker working in a plant if he can help it, if he knows about it. Can you put a badge on to yourself or could you ten years ago, a union badge, and go to work in a plant? Could you in 1932 campaign, put on a Roosevelt button and go into a plant, or in 1936? No, you couldn't, and he expects me to put on a communist badge or somebody else when we go to work in a plant. What is the meaning of these words "Infiltration"? To give it a viscous connotation, that's what it is, that our purpose is ulterior, that's what he wants to show.

Then he said he was going to show sabotage done by myself in this area. What evidence was brought out on that? After his opening statement that's all that was said on that. Another lie by the prosecution coming out of the mouth of Mr. Cercone.

[fol. 2400] Then they were going to prove that I was working to infiltrate the army, and ROTC, and the National Guard, and Navy, and so forth. And what did they bring in. This statement of the paid stool pidgeon Crouch who talked about things that happened in 1928—if they happened at all. That's the testimony about the work on the armed forces. That's the proof Mr. Cercone brought out that they issued some kind of a paper called "Red Cadet". When was that—in 1928, if it was put out at all.

Well, Mr. Cercone went so far afield on his questions he had to be stopped by the court "That's a matter of proof, Mr. Nelson," he said, "And you can argue that question to the jury that it is not covered by the period of the indictment". Ladies and Gentlemen of the Jury, that's why I am raising it. Cercone's a lawyer, I am not a lawyer. Why did he bring it in? He knew it was no evidence and he knew he couldn't prove it. Why did he bring it in? He counts on the hysteria. He thinks all he has to do is to stamp his feet and the people are going to jump through

a loop just like these witnesses, that's what he expects you jurors to do, Ladies and Gentlemen. That's why it's brought in. He said he was going to prove what I did at one time in 1931 and thereon until 1938 when I lived in the Wilkes-Barre and Scranton area. Did you hear a single word about that? That's eight years. You might say if I am a criminal character one interested in convict- [fol. 2401] ing me would have brought that record into this courtroom and tell you Ladies and Gentlemen. But that wasn't necessary. All he had to do was to state that I was in the State of Pennsylvania and lived in Wilkes-Barre and Scranton. You ladies and gentlemen did not live there and you are supposed to believe that I did some terrible things. But I will tell you since he didn't bring it out I'll tell you proudly what I have done, things he tried to suppress, things he tried to cover up, I'll bring it out.

Then he said, Ladies and Gentlemen, that he is going to prove I am a spy, and if it did happen as he claims it happened twenty years ago it was known to these stool pidgeons, they no doubt reported it, how come nothing happened in connection with that? I will tell you why it didn't happen. Because they couldn't prove any such things. We are a political organization. A working class political party cannot gain it's objectives by conniving and spying and sabotaging and infiltrating—those are the words of the prosecution. We can only win our point of you by force of logic, arguing with people, showing what our position is in open debate and discussion and through struggles that the people go through. And he knows that, yet he said that he was going to prove that I am a spy. The only witness who testified to that was a person whom they brought on the stand who admitted hadn't seen me for twenty years. [fol. 2402] He says he was going to show by volumes of evidence that we sell seditious books and read these books. Well, Ladies and Gentlemen, you have seen already how they interpret these books and I will show in conclusion of this argument today how we interpret these books. We will come back to that question. You saw that these books were read and are being read and freely circulated in all democratic countries. And even according to Musmanno the only place where they couldn't be read was in fascist

Italy and nazi Germany. Even he had to admit that. In other places the people read them and they put what emphasis they see fit on these books, they take out of them what they understand to be right for their country, for their situation, and not what the prosecution wants to prove.

After Mr. Cercone ranted along those lines and shouted and waved a flag he stopped and the court was concerned. The court stated "I didn't mean to preclude you outlining your complete matter before the jury", the court says on page 472. "That's all right," says Mr. Cercone. He says, "I have done that." That was what he outlined. The court urged him to go on, didn't want to stop him but he said he was finished—"I think I have done that", on page 473. And that was the bare outline of the prosecution's case in Mr. Cercone's opening, Ladies and Gentlemen.

I just wanted to call your attention to what the prose- [fol. 2403] cution was going to prove but didn't. I wanted to show you, Ladies and Gentlemen these were statements and assertions based on political bias and prejudice hoping that you would believe this thing that he told you at the very opening of the case when I had no chance to tell you what my defense was going to be. He wanted to make an impression so that the things you have been reading in the newspapers and radio and movies that have always been lined against me will fit in with what he said and clinch and close your minds so that you can't listen to the evidence and arguments and my defense here. That's what he hopes to do. It was a malicious thing, not done by himself. That speech was written by Musmanno for him. He can't even write one like that. And I can prove the words—the language is Musmanno's language.

Ladies and Gentlemen, what is my view of this trial? My position is and nothing the world can change me from believing and understanding that and I want you to hear my story. This is a trial of political ideas, something that rarely happened in America. And it can only happen in a country where there is no freedom of speech, where there is no freedom of thought, where there is no freedom of discussion. Therefore, Ladies and Gentlemen what is on trial here before you is the right to think and the right to

express your opinions. Not only I—but supposing you develop an idea or accept an idea that is not in line with [fol. 2404] the times that say and are accepted by everybody, and you want to express that idea, talk to other people about it. You too would be liable then; especially if your ideas contained something that is against the few who want to rule and want to be in power forever. Books are on trial. Some of these books that they have brought into evidence here are a hundred years old and they have been printed in this country since the civil war—like the Manifesto. They have been printed in this country and circulated freely. And Abe Lincoln, the president of our country, one of the greatest, was in communication with Karl Marx who wrote that document. Karl Marx organized support for the civil war in those days in Europe when the British wanted to help the south. British workers were organized by those who believed in the views of Marx, and the trade unionists who didn't necessarily agree with everything to stop sending ammunition to the southerners at that time. And on the occasion Lincoln wrote a letter to Marx extending his thinks on behalf of the American people for the support given him. And he was faulted then with the Manifesto—they want to burn that book. Just like the Nazis and Mussolinis burned them. That's what these people want to do, Ladies and Gentlemen. And when they burn these books what is going to stop them from burning other books. Who is going to be the judge what books are right or wrong? Who is going to be the judge? In the past in America the tradition was the [fol. 2405] people read the books. They either read them or threw them away. They have that right. It is the acts the people commit that are triable. But not reading the books. How does anyone know what you understand by reading a certain book or what I understand by reading a certain book. They presume to speak and interpret my views. That's on trial, the right to read and the right to think. And Ladies and Gentlemen let me tell you that this type of trial of ideas and books is an ominous sign in our country, is a danger signal, is a straw in the wind—it is a straw in the wind that indicates that our traditional democracy is being destroyed by these type of people and

fascist ideas are being smuggled in under the pretense that they want to defend their country, and they want to defend the constitution and our way of life, and so forth. Nonsense! Mockery and lies, Ladies and Gentlemen! This is an ominous sign. Fascism is being smuggled in by the back door in this courtroom. This is a front door, if you please. This is the way they want to bring it in. Well, Ladies and Gentlemen, I am on trial because I warned the people of this danger. That's why I am on trial. I don't like to see our country go through a horror of fascism and Nazism which you know what that means already from your experience. All of you are old enough to know our recent history. You know that under Fascism freedom of speech is done away with, elections are done away with, the right to criticize—what I am doing here—public officials and policies is done away with completely. They [fol. 2406] want to limit me now, even before we have Fascism. I don't say we have Fascism, far from it. We want to stop it. That's what I am doing here, Ladies and Gentlemen. And one of the things you will have to decide is whether we should open the door to that danger, that menace. Under Fascism police activity and courts are combined. Well, you have seen already what liberties Musmanno takes as a judge, to act as a policeman, arrest you, testify as a witness, stand down here as prosecutor, going to Supreme Court where he is going to pass on you finally if you have to appeal any cases of this type. Police activity and court activity is combined under Fascism. And when Musmanno and Gunther and other judges do this here, bear that in mind, Ladies and Gentlemen. Under Fascism rights of labor are destroyed, no right to organize, and no collective bargaining is left. It is all out of the window. Things that we fought for for a hundred years would be swept out, and the monopolists would have the final word on everything. Under Fascism extreme bigots get to power. Let me tell you what that would mean in our case, Ladies and Gentlemen, as I see it. It would mean that the flag of the K. K. K. will be raised on our Federal Government by the Bilbos, and the Rankins, and Woods, who dominate key committees of our congress. In front of some I had to appear, like Woods who gets elected by

eight thousand votes from Georgia to congress, and Cvetic and Sherman run down there and testify before him and [fol. 2407] they use that evidence against me, that so-called evidence. Those type of people would run the country under Fascism; these bigots. And you know what Hitler did to minorities in Germany. He exterminated six million people and had to brand them to identify them, put numbers on them. And this country it is bad enough even now for certain people and you know who I am talking about. They don't have to be branded. You know what happens to them now. I am speaking of the negro people, the foreign born, and so forth. What happens to them even now? But under a Fascist system which these people are trying to bring in it will be a thousand times worse. That is an issue, Ladies and Gentlemen, before you. The Bill of Rights is on trial which guarantees everyone freedom of speech and assembly. But these people want to pass on the speeches that I make or you make or anyone else makes. They want to be the judges what should be said. That is already a form of censorship, Ladies and Gentlemen. And that exists under Fascism that they are trying to bring in now. And Fascism would lead to constant wars and colonial conquest. Our sons would have to do the battling for the few like the sons in Germany. The boys in Germany had to march off for Hitler. What did they get out of it? Six foot graves—that's what they got out of it, and twenty five million other people throughout the world. Fascism is a menace that we cannot allow, Ladies and Gentlemen, to come into our country and to [fol. 2408] destroy our Constitution and the Bill of Rights. I think this calamity can be stopped, and in a small way, Ladies and Gentlemen, let me tell you that's an issue you have to pass upon. Do you want to open the door to censorship? Do you want to open the door where someone else is going to pass on ideas before they are discussed with the public or outside? In the past, the public either listened to you or didn't. I made many a speech, sometimes to five people because more didn't come. If they didn't, that was their privilege. Those who stayed had a right to listen. But now they tell me I can't even talk to anyone. That's the issue here.

In my fight against this menace and my party's fight against Fascism in this country, we consider the first step is to stop the war program that our government is following at the present time. And you recall a telegram was read from the National Committee of the Communist Party to myself, and Judge Musmanno introduced it into evidence. I am not going to tire you with it. The essence of it was that we called to the end of that war in Korea when it started. We did it both because it was a danger for our country to embark on those type of wars and because the people of our country would gain nothing from it. Therefore, we wanted to stop it. What did we do? We wanted to stop it in a democratic way as best we knew how. We circulated petitions which they took away from us before we had a chance to circulate them. A thousand [fol. 2409] petitions were in evidence which called for peace. Is that a crime to call for peace? We did it because we thought that the stopping of that war and advancing peace Fascism too could be kept from growing into our country. Civil liberties could be defended better in times of peace than in times of war. We wanted to fight and fought for restoration of the freedom of speech and we wanted to stop these kind of heresy trials which were fomented by the war hysteria at the time. And we thought these things could be accomplished now within our constitution, within our democratic practice. And that's what we did on that issue of war. We contended wars are not necessarily inevitable and necessarily follow because somebody wants them. We think the people could stop this war. Now, there isn't a paper in town that hasn't in one way or other already condemned that war, yet when I went down to see the editor of the Pittsburgh Press when I received that telegram from the National office of *of* the Communist Party, I went down to the editor and said, "I want you to run this telegram in the paper." He said, "That's not news." He said that's not news but every day tons of ink and paper are wasted to smear my ideas, and I asked him to print them. No, they wouldn't do that, Ladies and Gentlemen. People are liable to find out that other people don't agree with this war. So that one of the issues on trial is the right to advocate peace, the right to call to an

end of this needless war. That's why they want to try [fol. 2410] me. And they said so by inference because they read it. The very first document they introduced here was the telegram from the National Committee of the Communist Party which called for peace. Did they think I was going to be ashamed of this telegram? No, that telegram is going to go down in history as an important document when the little pigmies that are trying to try me here are completely forgotten, swept off the face of history. I stand by it. I don't retract a word in it. Yes, if it is trying to advocate peace, I have done it. And if it is trying to advocate it in a peaceful way within our democratic constitution by letters and telegrams and delegations, resolutions, I have done it. They haven't brought one thing to the contrary that would show that I did anything other than that and my party has done anything other than that on the matter of advocating peace.

This is a trial of a minority political party. This is a trial of a party with which you don't agree or obviously don't know much about. They want to prevent my party from functioning although it has been in existence for thirty-three years, functioned in the United States and known to people who want to know about it. Thirty-three years it has been in existence. And it had carried on some noble work in behalf of organizing labor, in behalf of organizing the unemployed, and in behalf of fighting for the negro people and their rights and other minorities that no [fol. 2411] party of a size can boast of that kind of a record. They want to shut that party off, they want to try me here for what I have done and urged over a score of twenty years, and my work was an open book. I ran as a candidate, I spoke at hundreds and hundreds of meetings, union meetings, unemployed meetings, election meetings, all sorts of stuff like that. The people who wanted to know could have known about my activities. There was nothing hidden. But twenty years later they want to bring me on trial because they need a victim now. They think I am a good victim for them. Because I refuse to cringe and bow before them. I will never do that, if that's the last act I have to perform in life. I already told you Mr. Cer-

cone was reluctant to dig up my record and bring it in here.

Ladies and Gentlemen, we are in a dangerous path if these kind of trials continue. I told you in my opening and I want to remind you my witness, Dr. Aptheker, already dealt with that question. Being an historian he was well qualified to go into the question. This is not the first sedition trial in the history of our country. The very founders of our country, the writer of the Declaration of Independence, Thomas Jefferson and James Madison, his friend and co-worker—that is their friends were tried in 1798 in this country. They were tried all over this country. There weren't so many people here so there weren't so many courts. There was one judge who travelled from [fol. 2412] Boston all the way down South from town to town and they tried seditionists. And who were they? They were Jeffersonian democrats. Why were they being tried? Almost for identical reason I am being tried—in one respect—that they didn't want to have this country go to war against France. France had just overthrown the king to the monarchy and set up a democratic republic. And they wanted to have a democratic republic at the time and the American people who themselves kicked out the British and the King sympathized with France. What did they do. They took Judge Cox from Boston throughout this country and tried congressmen, they tried two newspaper editors, one an Irishman in Philadelphia, and a German American in Philadelphia, and they tried them all over this country and they found them guilty of sedition. And they are hollering about sedition. Do you know, Ladies and Gentlemen, after Jefferson came to power two years later, those viscious bills were repealed and the people who lost property because they were in jail, unjustly put in jail, the congress repaid their losses. That is about the only time I know about that congress has done such a thing. The first seditionists so-called in this country, the Jeffersonian democrats, they were reimbursed by congress for their loss. And now what remains of the sedition act of 1798 is a shameful blot on the history of this nation that could not be revived until 1919 in this country when the

[fol. 2413] steel corporations, the coal and iron trust; that has its label in the city everywhere you look, when they wanted to prevent the organization of steel workers which was organized by William Z. Foster, the chairman of our party, whose books they introduced into evidence here, they passed that law by a small margin of two or three votes majority. And it is that law that they revived now and they want to try me under that law now. They used it once during a case in Ambridge, Pennsylvania, where the people were framed because they wanted to organize a union before there were unions here—back before the thirties. Those people that were tried here they used the sedition act to try them. Ladies and Gentlemen, if I am convicted on this miserable evidence by this prosecution or anyone else under this law maybe convicted, this law is going to be conveniently used against others, especially against organized labor. What is to stop them—say that a couple of pickets who didn't want to obey what the boss tells them wanted to close the gates of a plant—what is to stop them from finding fifty stool pidgeons who will say that a strike leader made a statement of some kind and that he organized force and violence and so forth. And these people are likely to be tried under that law, Ladies and Gentlemen, if you permit that—if you permit the prosecution to have it's way.

So I am not on trial alone, Ladies and Gentlemen, here. [fol. 2414] although I am a single man here standing before you, an individual representing myself, doing the best I can to show you what is involved. The common people of the state are on trial. Their rights are on trial. And every decent person, human mans' rights are on trial here, not I alone. In other words, Ladies and Gentlemen; if you are a working man or a working woman you are on trial too. That seems like a strange statement to say to people that have to pass on the case here. I say it without batting an eye because I am convinced as I am alive that that's what is involved in connection with what I have said. The whole interest of the common people is involved in this case.

Recess.

After Recess.

Now, the prosecution, Ladies and Gentlemen, has brought out quotations from these books. In fact, they quoted thirty of them in the indictment. And they have put their own interpretations on what I am supposed to believe in or what I am supposed to think those books mean to mean.

I think you had a chance to listen to a scholar and historian, Dr. Aptheker who honestly and truthfully told you as he understood those books and those quotations to mean. [fol. 2415] I told you in the opening that I would demolish every one of those distortions in the indictment, and we have gone through them point by point, and I am sorry, Ladies and Gentlemen, that we had to be so lengthy about it. It had to be explained. You can't take a quotation out of its setting and say this applies today like it applied at that time. It has to fit in time and place in history. It can't just be read like that and automatically it means that. It is just like my little girl came back from school the other day and said, "We read a book about the discovery of television." And in the book it said soon they are going to have this magic instrument on the market, and you could see a person walking and talking. Of course, when that was discovered it was quite a thing, but now everybody takes it for granted. It doesn't have that meaning. It is no longer that value, nobody understands or pays as much attention to it in that sense because we are familiar with it and know what it is. But you take it out of a setting and it has a different meaning. It is a thing you can laugh about now when you look at it.

Now, Dr. Aptheker explained what Marxist and Leninist theories are. He told you in a general way what they mean and how they are applied in history. He told you these books make a criticism of capitalism and call for a change, and he didn't deny that; I don't deny that. And I will show you why that is necessary now on the basis [fol. 2416] of the evidence what was brought out and what I believed to be true, that it is correct even though most people don't agree with it. He pointed out in his discussions on changes in history that we now live in an era where capitalism is going out; it is on its way out. In most countries there is a struggle for that change. In our

country the struggle is still on the low level. Many people are misinformed on it and they don't know what it is since the enemy keeps telling the people what my ideas are supposed to be. The enemy I say the Press, the radio, and the organs of the big monopolists. That is who dominate the minds of our people. They keep telling you what the score is on this question. He explained that capitalism is bound for a change and that a people's ownership is bound to come. That's what these books advocate. And it shows in these books, and that's my belief, the workers and the common people, the farmers, have the most to gain from that change. They show that the rich who now dominate our political life and our economic life of our country have much to lose. Yes, they do. You take these boys who don't know where their mines are located and they keep coining profit out of it. One time Judge Mellon was asked before a senate committee, "How many mines have you got?" He gave the figure, how many acres of land he owned, coal, how many people you got working; he told them. He said, "Mr. Mellon, were you ever down in a mine?" He said, "No! No!". They made profit by other [fol. 2417] people's labor. They don't have to get dirty and get up early in the morning and take the bucket and go down and work. But is that the majority of our people? No! that is the handful. Consequently these people don't like a change and these books advocate a change. These books explain what imperialism is, how these big boys that get so big when they get to be too strong in the country in which they are in they go beyond the country and dominate other people, which we call imperialism. And the prosecution said, "Imperialism, you mean the country," and I say, "Imperialism, I mean Wall Street and not the country and not the people." That was our explanation on that question. These books exposed Fascism, they explain the reasons for war, and Dr. Aptheker showed you, Ladies and Gentlemen, that we don't need those books as dogmas, we don't just repeat them like a parrot, like the prosecution witnesses here, like a phonograph. In every country they are to be applied according to the conditions in that country. Some things apply, some things do not. The prosecution obviously didn't tell you how they are proper

and how they are to be applied in this country. They showed you a caricature, a monstrosity; that's what they did. Furthermore, these books show that we favor majority rule. The prosecution says that is not so. And we will show you that even the Supreme Court believed that was so in the opinion of Judge Murphy—that we favor majority rule——

[fol. 2418] Mr. Cercone: There is nothing in that case at all about that. We object to that.

The Court: We are not getting into the analysis of any law cases.

Mr. Nelson: I just wanted to refer to it. If I was an experienced lawyer, Your Honor, I would have introduced that book which I could have done, but not being a lawyer I didn't know, and I believe it is important for the jury to know so I want to make a reference to it.

The Court: The jury will be instructed to take the law from the court, not as you quote it or as Mr. Cercone may quote it. Proceed.

These books and my witness have explained that we do not believe in force and violence, that it is the small click that organizes force and violence, those who are destined to be swept off, those who would have to take the bucket and go to work; they don't like the idea. So they will use [fol. 2419] everything in their power to stop the people from making advances. Therefore, they limit democracy, put limitations on it. It is they who organize terror and sabotage. They haven't hesitated to frame workers, these big employers, when they want to break a strike——

Mr. Cercone: We object to anything like that. It is not in the evidence.

The Court: Objection overruled. Proceed.

We will show and we have already indicated our party is very anxious to participate in elections and has done so every time we had a chance, every time we were able to we had candidates. There are men in this courtroom—an old gentleman 84 years old who ran for governor on the Communist Party ticket, for United States Senate, a man born in Pittsburgh, organized the first Steel Workers Union way back in 1892 in Homestead, was president of the

first local—you mean to tell me people like that want force and violence? People want a chance to present their views to the people and our program, our immediate program and our ultimate aims, we have always done that when we ran as candidates. And force and violence is used by a [fol. 2420] minority people who cannot convince the majority they are right—they are going to use force and violence! Who would I use force and violence against? Even if I wanted to I would be a maniac to use it against myself and my people, the working people in this state. It is an idiocy and a stupidity they will laugh at when the time goes by. It can only stand now when there is bias and hysteria. Their interpretation of the books—it's like asking Hitler to interpret the constitution of the United States. Would he interpret it good and picely to the people? Would he interpret the thirteenth and fourteenth and fifteenth amendments that grant rights to the negroes and apply it the way it should? That's whose interpreting these things against me, people like that who have those very same ideas as I will show, as brought out here on this stand, right here.

These books speak of just and unjust wars. And I don't deny it. And I told you from the beginning, Ladies and Gentlemen, that the war in Korea is unjust and I am opposed to it. They want to hang me for it. That is what they want because once a man reaches 50 and he faces a 20 year sentence in the type of court that I have to face, then it is like a death sentence. You have heard that we have advocated peace in Korea in a just way, democratic way, and we did not and the prosecution did not bring in one bit of evidence to show that we have done anything different than argue with the American people, try to [fol. 2421] convince them it is needless war that should be stopped by letters to congressmen, getting your church and union to act on it. That's what we did. Even they could not prove—and I challenge Mr. Cercone now because I won't have a chance to say anything after I get through, Ladies and Gentlemen—he will have the last word—I challenge him to bring in anything to the contrary. Let him even put on a new witness, I am ready to let him have him, to show that we advocate anything different than

peaceful means of changing the policy of this administration that we think is wrong. Sure, in those books there is talk about unjust wars and sometimes they may have to be stopped by civil wars. What does that apply to, Ladies and Gentlemen? That applies to countries where there is no freedom of speech, where there is no right to elections, where there is no freedom of discussion. That applies not to our country or countries like France or Italy or Britain, that applies to countries like Nazi Germany, and, Ladies and Gentlemen, that is what the German people had to do along with the rest of the people of the world, they had to use force to get rid of him. That's the way those books are to be read. But they take a quotation and say, here is what they say, here is what they mean, completely oblivious to the fact that it does not apply to our conditions, and that they are dishonest enough to tell you, stand here before you, and they expect you to believe their miserable and scoundrelly interpretations.

[fol. 2422] So the books were interpreted by a Musmanno who had a political ax to grind, by a Crouch, and a Cvetic. They were interpreting the books for you, Ladies and Gentlemen. If it was permissible I would tell you a story that would be very apropos in this case, but I believe I will be stopped so I may as well not go into it.

Ladies and Gentlemen, we try to explain that these books carry an inference of the times, that they were written for specific purposes and they are general in character. Certain things apply to one country and certain things do not apply to that country, and yet they presume to interpret how we are to understand them. As I said already, even the Supreme Court held——

Mr. Cercone: That is objected to on the same grounds.

The Court: Don't refer to any case referring to the law, Mr. Nelson.

I had known a very famous member of the Supreme Court in a general way at a distance. He was Judge Murphy, and he stated——

Mr. Cercone: Your Honor, that is hearsay and not part of the evidence.

[fol. 2423] The Court: Let it be read.

—"Political writings are often over-exaggerated polemics bearing the imprint of the place in which written. Every utterance of party leaders and these writers is not necessarily party gospel.". And what they talk about, the Manifesto, Statez and Revolution, the books that are in evidence here, Lenin's books and Stalin's books that are in evidence here. Since I don't want to go any further on this—had I been a lawyer I would have introduced the one *i Missed* —I could have read you this very important opinion that the prosecution doesn't like to have you hear now. At every chance Mr. Cercone——

Mr. Cercone: The defendant knows very well that whether it is a lawyer or not he couldn't have introduced that in the case.

Mr. Nelson: I could have introduced it if I had asked my witness if he knew it, but I failed to do that.

The Court: No, your lawyer or you would not have been privileged to do so.

[fol. 2424] Mr. Nelson: That only goes to show that I don't know enough about law, Ladies and Gentlemen, and I am doing the best I can as a layman to explain what I believe to be true.

Now, they spoke about the Communist Party's views being one thing in the books and one thing in the open, that we have some kind of a code language that one time we mean one thing and another time we mean something else, and who interprets this, their people, their witnesses, thirty-four dollars a day people, that's who tells them what we think. Ladies and Gentlemen, you cannot have one view one day on political questions just because you are on trial and the next day believe somebody—I mean somebody may read that will get a wrong interpretation. Ladies and Gentlemen, I am telling you how I believe and understand—and if that's the last thing I have done I would not knowingly distort those things that I believe are deeply true and are absolutely historically true and are correct. If it is the last thing I have done, if that were the only thing that would get me an acquittal here I would not distort the meaning of the books as I understand them because that will be playing a dangerous game in political

work such as my work and fight for socialism. You can't tell the people one thing one day and expect them the next [fol. 2425] day to believe something else. I stand by those convictions and I reject the interpretation of the prosecution that we have some kind of secret codes by which we communicate the meanings of those words. They mean what they mean in the English language and we interpret them as we understand them, not as dogmas and mechanically but as I have already indicated to you—and I will come to it again.

Now, Ladies and Gentlemen, those books speak of the fact that our country is dominated by large corporations. My witnesses have brought that out. I have made a statement in opening that sixty large families control 250 corporations and that those 250 corporations control 70% of the economy of this nation. And I have shown that in the City of Pittsburgh, and our witnesses have shown, that just two banks—and I am not going into others, there are others—own United States Steel, Westinghouse, Aluminum Company of America, Pennsylvania Railroad, Pittsburgh Coal, Duquesne Light, Crucible Steel, Gulf Oil, Koppers Company, Pittsburgh Plate Glass, Pittsburgh Street Car Company, Aviation Companies, Bus Companies, Newspapers and Radio Stations—just these two companies. I did that briefly because we went through that. Now, these books state that because of their tremendous economic power these corporations have a tremendous political power that dominate the two whole parties. Talk about these secret meetings, it is these big boys at the Duquesne Club that get together and say who is going to be a candi- [fol. 2426] date for this and who is going to be a candidate for that. Talk about democracy, they give us two sets of candidates both chosen by these parties and then we go ahead and vote. Sometimes the people break through that. It often happens. The big boys don't like it when that happens. It happens sometimes in local elections, city and national, when the people don't take the machine candidates, when they manage to break through. Now when I said that our Congress of the United States has done wrong on a number of questions, principally on the war in Korea and on its cold war policies, let's show you what I mean.

Ladies and Gentlemen. And it is in evidence in Mr. Foster's book, Twilight of Capitalism. If the prosecution won't stop me I will quote from page 51, right on the bottom: "A magazine known as U.S. News"—you probably read it, you probably seen copies of it—"In it's November 26th Issue, 1948 analyzes the make-up of our senate. What does it say? the senate has 66 lawyers, 16 businessmen, 9 farmers, and 5 others. This country has 60 million working people, not one is there. Who are these lawyers? Big corporation lawyers who stand on the Board of Directors of the various big companies for the most part, there are exceptions. What about the United States Congress? 235 members in the House are lawyers, 81 are businessmen, 37 are farmers, 21 are newspapermen, 21 are school teachers and 41 others."

[fol. 2427] Now, Ladies and Gentlemen,—you can laugh, Mr. Cercone, it is a good smug you got on your face all the time when you don't like it when I bring out something. It is up to you. You go ahead and distort it.

Isn't it true, Ladies and Gentlemen, that these big corporation lawyers that cluster around our Congress and Senate—now that is bad—I say it is bad. No labor men in Congress, very few farmers. Is it the presumption that labor men have no brains? Nonsense! It is the big boys in the Duquesne Club who settle the questions who is going to be candidates of this and that party. That is why labor doesn't get any further, and negro people, poor farmers. And these people set policy. They are surrounded by advisors and ambassadors who come from Wall Street. Take Mr. Harriman, member of the Cabinet. That's an evidence. Take Miss Perle Mesta. She is an ambassador. Why? Because she operates an open shop. Neither the CIO or the A. F. of L., but she is a good friend of the administration because she kicks into the election campaign more than you and I can kick in and John Foster Dulles, he is a special adviser to the President. He was in Korea a week before the war started. What was he doing there, this big Wall Street banker, what did he have to go there for? Couldn't they send someone a little more subordinate there? Because he has got interests in International Nickel. [fol. 2428] That is a big war monopoly and that is a big

war industry right now. Nickel is needed in the war production, Ladies and Gentlemen. Do you think a man like that is going to want peace? Do you think Miss Mesta wants peace when they can make big machinery now that bores cannon and so forth or whatever else they do for war, and the government pays for it, taxpayers pay for it. These people cluster around this present administration. They didn't have that much elbow room in the Roosevelt administration, and that's why they hollored that time, "Oh he wants to run for a second term, he wants to run for a third term," they said. Because he stood for certain democratic rights that have now been destroyed or is being destroyed under the Truman War Administration. Take Snyder, Clayton the Cotton King. Every time a gun explodes cotton goes up in the air. It is an important ingredient in war and who pays for it—you and I—Who gets the profits—Mr. Clayton, being advisor for the President.

Ladies and Gentlemen, these people not only follow a bad policy abroad but they also follow a wrong policy at home against the people. You know how long it took Truman without hesitation to fine the miners one million dollars because they went out for a little increase in wages. The companies are putting their machines in the mines and displacing the miners by the thousands. They want a little protection, shorter work day, they wanted a little more [fol. 2429] wages, and the courts come to the aid of the corporation by fining them a million and a half dollars for organizing a strike to increase their conditions—not to change the system, Ladies and Gentlemen. What did Truman do with the railroad strike—the same thing—order troops. Just the other day the packing house workers wanted an increase in wages. Look at the prices of meat we have to pay. You think the packing house workers get it. No, it is the four big monopolies that get the profit. They want to have a little increase in wages and the court passes a fine of one million dollars just the other day against the packing house workers union.

So when I said that these people who set a bad foreign policy and against the people over across the seas, they do the same thing on the home front. You can't separate

the two. When you have a war policy you also have a policy at home which is against the interest of the people. You can't get a bill passed against the poll tax, for an F.E.P.C., for housing, for help. No, those questions are supposed to go down the drain. Now, we are supposed to keep quiet.

One of the reasons I am on trial is because I don't want to be quiet on these issues, Ladies and Gentlemen. I want to speak, and Ladies and Gentlemen, if you have any adverse mind on these questions and you want to speak on these questions in your own way as you did in the past it [fol. 2429-a] is being threatened by this trial. That right is being threatened.

Luncheon recess.

[fol. 2430] Afternoon Session

(Court convenes pursuant to recess of this morning, at 1:15 P.M., January 28, 1952, and Mr. Nelson continues his Closing Argument to the Jury.)

Mr. Nelson: Ladies and Gentlemen: When we left off just before going to lunch I was trying to make the point about the influence that these wealthy people have on our administration; where they don't run it lock-stock-and-barrel they certainly have a dominating influence. And I will spell that out briefly as I see it, how they follow that policy on the homefront. My contention was that that policy is harmful. And because I criticized and disagree with that policy, that is one of the reasons for this trial. In other words, in this case, to give you an illustration, I am not only on trial alone, but other people who may disagree with these questions are likewise facing trial here with me.

Now, Ladies and Gentlemen, if these people have such tremendous sway in our administration, made up by these businessmen and bankers and corporations (lawyers for the most part), they naturally affect our foreign policy. That is a very important thing—the national interest. [fol. 2431] Their interest is different than the interest of the common people at home; and their interest is different whenever it comes to foreign policy. They want low wages and more profits. The common people want more wages

and shorter hours. There is that constant difference of opinion and struggle. And they, of course, use every advantage that they got to get what they can out of life and out of us. So they do the same thing on foreign-policy questions.

I think the best way, you might say, like an old saying goes, that you can tell a man by the company he keeps, as a rule. Well, who keeps company with our people now at the present time in the foreign countries? In Italy the old friends of Mussolini who are now supporting the foreign policy and so-called Marshall Plan against the very people of Italy—the Unions in Italy are not for; they are against it. It's the same in France; it's the same in most of the countries. And I think the best illustration is what they do in regards to the old Nazi generals whom our army defeated in the last war; take General Gudarian who organized Hitler's legions, his armoured columns—he is now advising our foreign policy experts in Europe on German matters, he who was responsible for the murdering of our own soldiers—he now becomes the friend of the people who run things in our State Department. And when I [fol. 2432] criticize these things, that is sedition. When I oppose and criticize the recognition of Franco, who overthrowed the democratic government of Spain, and whom Roosevelt wouldn't recognize—Truman managed to do it, even though he had lent bases during the last war to Nazi submarines in Spain. As they say, we ought to reflect upon these questions, because we can tell who we are by the friends we keep.

In the Far East there seems to be no difficulties with our foreign policy experts and the Japanese, Tojo's men. The big corporations in Japan, already the oil companies of Japan are merged in the American oil companies—and the electrical industry, too, is owned by Westinghouse, the biggest part of it in Japan. So the big people have an interest in these places; but it is not the same interest as yours and mine—our interest. Look who we are supporting in all these places; read the papers today and you see what you see: Rebellions on the part of the people in India, Tunisia, Africa, Near East, Far East. And what are we doing about it? In those countries they first kick out

the monarchs and kings and set up a democracy. Our foreign policy is to support those puppets—Chiang Kai-shek and the rest of them—I am not going to take the trouble of telling you; everybody here knows that.

Supreme Court Justice Douglas wrote an article the [fol. 2433] other day that he came back from a long trip, and he says that no money in the world can keep those people from doing what they are doing; and he criticizes that policy now, too—even criticized it two years ago. A lot of people are beginning to see there is something wrong with our foreign policy. And because I make these criticisms they say that is against the country, they say that is against the people, they say that is against the Government of the United States.

Ladies and Gentlemen, my criticism and my party's criticism of this policy is based on the idea that it can be corrected before we go down the road that Hitler took the German people down on. Didn't they disagree with him? If they did, he said they were criticizing the leader of the country, therefore the government. That is what they are saying. Aren't they saying that to me?

"You can't criticize my foreign policy when we go into Austria," said Hitler. "Put them in jail." And that's what they want to do with me. "You can't criticize me when I invade France, and invade Holland," and so forth—which is what Hitler did—"If you do, you go to jail." And that is what they are trying to do with me.

As a result of this policy, ladies and gentlemen of the jury, the common people of the world disagree with the [fol. 2434] policy of this administration and they are rising up against it the best way they know how. And we, to my sorrow, are the ones that are putting shackles on them, telling them what they should do in their countries in order that big corporations can rob them more. I will have no part of such a policy. As long as I can, I will criticize it and oppose it—and we opposed it in a democratic way, as I have shown already. Even though we call that war an imperialist war, no one has said that the Government of the United States has to be overthrown. Even the prosecution couldn't prove that. But they talk about books that

were written in 1917 for another situation, for another set of facts, where it may have applied.

The labor movement of Europe does not agree with our policy. The whole union movement of France and Italy, approximately, between these two countries, of up to fifty million people in organized labor—they don't agree with this policy, because this policy favors the corporations in their own country and not the common people. Well, this policy is not only bad for colonial people but also bad for our people in this Country. That is one of my major reasons why I am on trial here; that's why they brought me here—because I say that the monopolists are coining blood money out of this war; the taxpayers have to pay it. Eighty-five Billion Dollars is our budget for armament right [fol. 2435] now. That means Five Hundred Dollars per head, a person in the United States, ladies and gentlemen, in order to put shackles on the people of Tunisia and Korea and other places so they can't establish their own type of government that they want. We have to pay for it. And what about the things you can't buy for money—a hundred thousand casualties—a hundred thousand casualties already—American casualties. What about the innocent people, women and children, that are being bombed by those gasoline bombs, jellied bombs, in Korea? You think that is good? Just because it is not falling onto your house. I don't think so. If it is wrong in one place it is wrong in another place.

Sure, the Standard Oil and Gulf Oil and the Mellons, who make those bombs, like the idea. You pay for it. But their sons go even to pull the trigger—No, they sit here and coin the cash. And because I am opposed to this, this tremendous war budget, this big profit, high price, and because the racketeers in Washington go around, their wives getting mink coats and deep-freezers—you know how rotten it is—and because I criticize that I am supposed to go to jail. That's a Fascist way of settling an argument or disagreement; not a democratic way.

My expert, my witness, Doctor Aptheker, explained the [fol. 2436] books and what they mean in terms of socialism which I am not trying to convince you of now; that is not the issue—that is not the issue. You don't have to agree

with me on that, ladies and gentlemen. I think it is an excellent idea and nobody can tell me that anyone has any supernatural power and has stated and said it must be obeyed, that these factories and mills that are now in the hands of the corporations must be so forever to come. I think the people can run that industry a thousand times better. We could have shorter hours and leisure if we don't have to keep these leeches on our backs; they who do nothing to earn the profit out of the backs of the workers.

And, therefore, I advocate socialism, which will do away with unemployment under a four-hour day or less. The more machines you put to work the better. What happens now? You put more machines to work and less workers there—out we go. Why? Because the employers who own the industry don't cut down your hours of work when they put in the machinery. They keep up longer hours so long as the unions don't stop them. And every time the unions are going out to shorten the workday, they said calamity itself will come—doomsday is coming, said the Pittsburgh Press in 1916 during the general strike of the Westinghouse workers. We will have to move out of here, they said, if the workers get a ten-hour day, mind you. Well, I'm asking for more than that. I advocate more than that. Conse- [fol. 2437] quently, they have good reason—these people have good reason to want to shut me up. But their reasons are not—I dare say, their reasons are not the same as your reasons should be; you are in a different category. You are not exploiters, you ladies and gentlemen of the jury, you get nothing of the gravytrain of the Mellons. You probably sweat for them in the factories that they own.

So I advocate socialism, which will do away with overproduction, where every so many years there is a depression. Why? Because the people produce too much goods. So, because they produce too much goods they are laid off. When you are laid off you can't buy the goods they produced and there is unemployment and depression.

Every ten years in our history, over a hundred years, that's been the pattern. The only thing that held up the depression now was the war program, ladies and gentlemen. And I say that if a system has to be kept alive by war, then, there is something wrong with it to the very core. So I

advocate socialism because it will do away with overproduction and starvation when there are plenty of things to do and plenty of goods in the country.

I advocate socialism because it will do away with all types of insecurity that the people face today, where they [fol. 2438] are at the mercy of the boss instead of being dignified people; where they could determine their future, they are dependent on the boss as to whether or not you are going to work when you get a little older, or whether or not you are going to get a job after you have been sick or something—always depending on the boss. How long do we have to put up with that? I don't agree with that and I am not asking you to agree with me. All I ask is: Do I have a right to advocate that? That's been done in this country freely for over a hundred years. Sure, there were times when hysteria was built up and some people wanted to shut our mouths—there were those times. In the main, that has been our privilege in this country. Now they want to shut that off; they want to shut the idea off that a change is inevitable, that we can establish the brotherhood of man on earth—they want to stop that. That's the horrible thing that they bring to you and they say is socialism. I say that is different. It's the thing that is coming and no force on earth can stop it—no force on earth can stop it.

That's what these books teach, as I have shown through my witnesses, and the American people are going to take the road to socialism when the majority is so convinced. It can't be imposed on them. Who can impose such a thing on anybody?

Ladies and gentlemen, through my witness Mr. Ben Ca- [fol. 2439] routhers, I have briefly shown you what our party did in the course of the period during the indictment. And he is well-qualified to speak on it. He was associated with my party here for over twenty years, and one of its leaders—one who can't be bossed for thirty-four pieces of silver; who stands and takes his chances in the courtroom even though he knows there is going to be ostracism and attacks on him. And he told you what my program was locally, our party's program. We fought for peace, for housing, for Negro rights, to organize labor, for unemploy-

ment insurance. Those were the crimes we committed. There is a load of stuff in that pile—and a pile that isn't here, leaflets that the prosecution didn't bring in here—only giving you a few, which I had a hard time to get and had no time to look them over, because while I came over there I had to tell the prosecution what I wanted. And there is much stuff there that I would recognize and have seen and picked up and given to the jury if I'd be given the right to do it. I came down once and Mr. Cercone wasn't down there. I came down the second time and he was breathing down my neck——

Mr. Cercone: If Your Honor please, I object to that. The man has a complete list of everything we have here, and complete accessibility to it.

[fol. 2440] Mr. Nelson: You keep quiet until I get through. You will have your chance.

Mr. Cercone: I am not going to keep quiet and listen to these lies.

Mr. Nelson: Isn't that true? You came down last Sunday, and I had to tell you what I wanted.

Mr. Cercone: I gave you all that I had. I didn't know what you wanted.

Mr. Nelson: Why didn't you bring it in?

The Court: Do you want me to recess, gentlemen?

Mr. Nelson: I am sorry, Your Honor. But when the facts are different—you know, I told you about it.

The Court: Neither one of you will give me any attention.

Mr. Nelson: I am sorry.

The Court: I afforded you all the opportunity, Mr. Nelson, [fol. 2441] to go and get what you wanted there; and I directed the District Attorney to submit to you anything that you wanted, so that you would have everything that he had. So that when you criticize in that vein you are criticizing the Court. I do not think the Court is subject to that criticism, for we afforded you ample opportunity to get all the material in that place that you wanted.

Mr. Nelson: Your Honor, I had one hour's time to come in and I couldn't see the material. I had to sit in another room with a detective sitting by me.

The Court: You registered no complaint with me.

Mr. Nelson: I told that to Your Honor, I couldn't see

the material I wanted. I could give them a long shelf of 500 items, but I don't know what is in the boxes. It says, "Box of Leaflets"—how can you tell what's in them.

[fol. 2442] The Court: Proceed.

Mr. Nelson: (Continuing to the Jury) My witness has shown that I participated and led to build unions around here. And despite the District Attorney's distortions or curves put on by the prosecution as to our intention—I think you heard the story—organized the workers for one purpose: To build their unions and protect their rights.

Ladies and Gentlemen, a new thing has been added to this trial, despite all the arguments to the contrary I will show you that what is on trial is the right to read books. And a verdict against me would mean that we are going to open this country to witch-hunting and burning of books, books that are now available. I read to you nineteen items that were testified to by the Librarian—I will not repeat the books—that are now available, people can read them. And if the prosecution is going to tell me that they can tell whatever individual went in the library concluded by reading those books, they are presuming to say what I believe is in them. How about another individual that walks in there and reads the book? Next thing they are going to do is follow a system of card-filing, "Let me know when that book comes out so we can send somebody to follow him, see where he lives." That's a hysteria, a witch-hunt, that this country should not allow if our democratic system is to remain.

[fol. 2443] Now, ladies and gentlemen, I want to analyze the testimony of the witnesses of the prosecution. You heard this man Crouch testify on the stand, swore out to tell the truth and nothing but the truth on the stand. Then he talked about secret meetings the Communists held. You recall when I asked him the question: "Where were those secret meetings?"—on Page 1241 of the transcript, Mr. Cercone—he says, "They were in Webster Hall, Manhattan Lyceum and Center Hotel in New York City." You recall when I asked him: "Is the Webster Hall a secret place, specially built for the Communists? Do you have to get into it through an underground tunnel?" After I pressed them for about ten minutes I finally got an answer from him on

Page 1323. His answer was "No." Then he said when they got there, he says, "We got badges." You recall that testimony. Badges. Badges. And then he wants you jurors to believe that the meeting was a secret meeting hidden from the public.

Then this man testified that there was a school held somewhere in California, in 1941, way out of the date of this indictment. And if there was anything wrong done he could have reported it a long time ago. And he kept referring to that school as an "underground school". When he couldn't establish that, the Court ordered him to refer to that school —that is, the remarks about "underground school" were [fol. 2444] stricken from the record.

Then you recall the cry he put on the stand, he wanted to have a side-bar conference because he had revealed his address and, he said, someone was going to assassinate him—meaning myself. And, of course, who wants to have assassins walk around. That means you should put me somewhere else, according to him. Then he said, ladies and gentlement, that there were threats against his life, that I came to speak to him in Oakland, California and asked that he had to come back to the party or it was going to be dangerous if he don't.

Well, I will put on another star performer of the prosecution and ask you to remember what was said. Witness Patterson was asked: "Did you have any difficulty leaving the Communist Party?" "No, I just left." "You just left?" "A. Yes. Q. Did anybody put any obstacles in your way? A. No. Q. Nobody threatened you? A. No. Q. And you didn't have to hide your address after that, did you? A. No, I never did. Q. And you weren't troubled by anybody from the Communist Party in that respect, were you? A. No."

And Crouch screamed like a stuck pig over here on the stand, if he knew that he was going to have to reveal his address here he wouldn't have come to testify, he said. If [fol. 2445] you can believe that, then——.

Crouch testified about the books that were supposed to have been used in 1941 in school in California, but he testified in several trials, including before Senate Committees, and he was asked at various trials what books were used—

and the three books that were introduced here, ladies and gentlemen, he never mentioned. "The program of the Communist International, Why Communism, and Manual of Organization", those three books he never mentioned in any previous testimony. But here it is important for the prosecution and, of course, he will say, "Yes," we used that book." "Did they use that book, Mr. Crouch? Yes, we did."

You remember one time he hesitated and I said "Go ahead and answer it, you know what he wants." And he answered, "Yes, we did."

I already showed, through my witnesses, ladies and gentlemen—and Cvetic admitted it on the stand; I will come to that—that he says that book was never used in my time that I was in the party—Cvetic said that. Here you have the three performers; one says one thing, one says the other thing, even though they all read the record of the various [fol. 2446] trials, and they try to stick very closely to their previous testimony. Then he testified to things in Pennsylvania—listen to this, he says, "Were the Communist Party policies applied to Western Pennsylvania?"—the question by Mr. Cercone. And he says, "To a far greater degree than elsewhere." Now why? And how does he know? He has not been here, he has never been in Western Pennsylvania. He doesn't know how the Party works in the State or here. But the answer is necessary for Mr. Cercone, and a little stoolie is going to give it to him: "To a far greater degree . . . " Don't you see, "far greater degree." He admitted he was not in Pittsburgh in 1950, or until 1950 when he came to testify, didn't see me for a long time. Then you remember how well he knew who the editor of the British "Daily Worker" was.

I asked him the question, I said: "Do you know Mr. Rust?" This is the man that he met ostensibly in 1928 sometime. I said, "Do you know the man?" "Yes, I do. I see his name," he says, "printed in the British "Daily Worker" every time I read it." "Have you been reading the paper closely?" I asked him the question. He said, "Yes." "How regularly?" Then he began to hedge. I asked, "What is the last time you read the British Daily Worker?" I asked him. And he says, "Recently. A year ago maybe." Then, ladies and gentlemen, it turns out that Mr. Rust dies five

years ago. Can you believe that man's testimony; a man who makes a racket out of testifying?

Then if you recall, ladies and gentlemen, I asked him the question: "Do you have a contract with the Department of [fol. 2447] Immigration?" He answered, "No." "Does your wife have a contract for testifying with the Department of Immigration?" He says, "No." Ladies and gentlemen, I have here testimony that he gave before the Department of Immigration in which he was asked the question——

Mr. Cercone: Your Honor, that is objected to.

The Court: That is not in evidence here. You may not refer to it.

Mr. Nelson: Your Honor, this is the point I raised on cross examination. He denied it. You want to look at it? I have the number of the record: July, 1950, File 0300-30401, Pages 1138-1139, in the case of the name of I. W. O. Dyrnetrysyn.

The Court: I will not accept any more evidence. The record is closed. Limit yourself to the evidence that is already entered.

Mr. Nelson: Your Honor, he was asked the question here and he denied having a contract. In this document he ad-[fol. 2448] mits having a contract. His wife admits it.

The Court: That is not a part of the evidence and may not be said here or referred to by you.

Mr. Nelson: Your Honor, that is taking advantage of me. I am not a lawyer and I didn't know how to meet this question when it was proper to do it.

The Court: I don't care whether it is taking advantage of you or not, the record is closed and that is not part of it and you are not privileged to argue from it.

Mr. Nelson: (Continuing to the Jury) Ladies and gentlemen, he testified that he appeared in scores of cases, each time receiving $25.00 fee, and $9.00 expenses, plus fare equal to a plane fare if he had to take a plane or he travelled any other way. He admitted, ladies and gentlemen, he calls his job a "Consultant For The Department of Immigration." I have dubbed it, "Finger Man for the Department Of Immigration." That's his tool, his finger—fingering people. He has got a contract for $100.00 a week, plus

[fol. 2449] expenses. He says he testified in fifteen cases and his wife had also testified, although here he tried to deny that she was getting paid for it—she is doing the patriotic duty. In this document here, she has a contract, ladies and gentlemen. He said she's a housewife—It's a lie. You remember the performance he put on about losing money here. Every time he come to testify he loses money. Well, when he began to complain about his address, then the cat came out of the bag. He says he has a house in Miami and one in Washington, D. C. A man with a woman alone needs two homes? How does he do it? I can hardly pay my upkeep of my own house, my family; he can keep up two—and he gets nothing for it? He just testifies because he loves to testify?

You recall Mr. Cercone tried to shield that incident, whether or not he is getting paid on questions—and the Court ordered him to say—the Court said in the record he admitted he is a paid witness.

So, ladies and gentlemen, the first witness of the prosecution (Crouch) was brought in from out of town, who makes a racket out of testifying. That's the way he makes his living. And he would think nothing of sending innocent people to jail—he would think nothing of it. That's the way he makes a living. Well, you remember the discussion about this man walking through a picketline in Miami, Florida, in [fol. 2450] the Miami Herald. I tried to press him to admit whether he did or didn't go through a picketline. He tried to weasel out, as he knows how, because he has been doing nothing but that. And the Court asked him the question, "Was there a strike on the Miami paper?" And he answered, "In one of the departments." Then when I pressed him some more—"Did you go through a picketline?"—the Court said, "He admitted there was a picketline around the plant." I couldn't get it out of him. Finally it came out for everyone to see that he went through a picketline on that paper. Then I asked him the question: "Did you operate a varitype machine on that paper?" That's a machine that the newspaper employers used to beat down the typographic union by hiring girls for low money; and any girl that can operate a typewriter can operate one of these machines—and by this method wanted to destroy the gains

made by the Printers Union. It is a very special machine and it was only operated in this country in time of strikes of newspapers. First he said he didn't know what that machine was; then on Page 1303 he said, "It is an I.B.M. electric machine. They make all the varitype machines." Later on he admitted he wrote a letter on it; that's as far as he would go here. Then when I asked him a question: "You wouldn't stop work on that paper even though you knew there was a strike?" And he weasled and weasled and [fol. 2451] finally the Court said—on Page 1310 the Court said, "He said he would not have quit." He would not have quit.

Make a smirk—look at it, Mr. Cercone, on Page 1310. Look it up, Mr. Cercone. On Page 1310 of the transcript: "You would not have quit, working on the paper that was, on strike, would you, Mr. Witness?"—a question by myself. Then he tried to weasel out of it. Then I asked the Court: "Will you help me?" "Stop him," I said, "make him answer the question." And the Court said, "He said he would not have quit."

Now go ahead and smirk again, Mr. Cercone.

Mr. Cercone: What are you talking about? I'm not paying attention to you.

Mr. Nelson: I know that is a weapon you lawyers learn. I don't know how to use it. You are using it against me.

Mr. Cercone: I don't know what you are talking about.

Mr. Nelson: Then I asked him a question, ladies and gentlemen: "Where did you go after you got either kicked out or booted out of the plant in Miami?" He admitted he [fol. 2452] went to testify against Harry Bridges on the West Coast. Then I asked him: "Did you know Harry Bridges?" "Oh," he says, "I knew him very well." Then when I confronted him with a record, where he testified before the United States Senate, where he was asked the question, "Do you know Bridges?" he said, "I know him slightly." Here he knew him well, but in that case, where it is closer to times, there you have to admit he knew him slightly.

Yet he testified, ladies and gentlemen, and he complained that he lost money, he had to borrow money—in fact, he said he still owes A Hundred Dollars. Now you can believe

that—and that's the man's testimony—then there is something wrong in the world. I have confidence that you can't believe him.

So that was one of the witnesses of the prosecution—Crouch—a professional stoolpi*d*geon—goes around fingering people, makes a racket out of testifying, lies on the witness stand, puts on a performance here about danger to his life. And that's one of their star witnesses.

Now we have another witness, Judge of the Supreme Court, Michael A. Musmanno. You recall, ladies and gentlemen, I asked him a question: "How many judges are there in the State of Pennsylvania?" He wouldn't answer the question, but I think the figure we arrived at there [fol. 2453] may be about 200. I asked him whether he knew any other judge who did what he did in this case. And what did he do, ladies and gentlemen, in connection with my case? And I want you to weigh it even though he is a member of the Supreme Court and wraps himself up in the Flag every time he needs to—and that is the recourse of every scoundrel, ladies and gentlemen. Somebody has said that, in our history, when you can't win by argument, wave the Flag. And no one knows how to do it better than he. In every parade he struts down like a kid in front of the Westinghouse Plant; puts on an Army and Navy uniform, struts around everywhere he wants to. He wants to attract attention. What did he do in connection with my case? First of all he took the material from the building in the Communist Party headquarters. The office was known for years to all the people who wanted to know. He went over there and took the building, not to the Sheriff's Office—the material, rather—but he took it to his own chambers. He admitted that—an illegal act—and a judge and a lawyer who should know better.

You, ladies and gentlemen, recall my questioning him about his sojourn in Italy in 1924 and 5 when Mussolini was in power, when all decent people who could ran away from there. He went there to study, to study law, Roman Law, which couldn't be studied anywhere else I suppose.

Then you recall the article that he wrote to the Pitts- [fol. 2454] burgh Press in 1926, in which he defended the acts of the Fascisti as noble deeds of young men. Then

what did he do about the young men, what happened in Italy in 1920 and 1922 before his time there? He admitted —or, he wouldn't tell me what it was on the stand—what happened was that there was a general strike in that country. The workers were organizing Unions because the conditions were bad. And sometimes they resorted to sit-down strikes. Now every worker in this Country knows about a sit-down strike. When Henry Ford wouldn't allow the workers to be organized, because he always managed to bring in scabs by some devious routes, the workers sat right down in the plant and sat in there day and night, and the other workers brought them food and they organized a union. General Motors, in Ford's, in Fisher's, in Chrysler's, those were the most outstanding strikes we had, where workers used the sit-down strike. And when the workers did that in Italy, then it was great stuff whenever the Fascisti threw them out of the plants. And, of course, Musmanno calls them "dirty reds", so that makes it okay. What employers didn't call the workers "reds" and whatnot when they wanted to break the unions and their strikes and so forth? That always happened.

And, ladies and gentlemen, he introduced a letter which they said that is remnants of a speech that I made when he [fol. 2455] was there. Ladies and gentlemen, you can't tell me and you can't tell any sane person that on the one hand you can criticize the Fascist Regime as being bad, as that letter does, and then come back to the United States after you had been there and defend the Fascist Regime. You cannot tell me that. No sane person can believe that.

My reason for bringing that out, ladies and gentlemen, is that Musmanno has essentially acquired and was trying to bring into this Country Fascism, that's what he was doing. That is why he goes over and takes the books, puts them in his own office. Instead of letting the policemen do the job of arresting, he sees that it's done, executing all those things in order to get in the limelight in the newspapers to fit into his election campaign, ladies and gentlemen.

You recall the way he treated Miss Roth in this court room when she appeared as a juror for the Grand Jury —kicked her out, made a long speech. And five days later